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NAVAL POSTGRADUATE SCHOOL

MONTEREY, CALIFORNIA

THESIS

**CHINESE INVOLVEMENT IN “MARITIME
AGREEMENTS” WITHIN THE ASIA-PACIFIC: REDUCING
RISKS AND PROVIDING REASSURANCE**

Albert H. Geis, Jr.

March 2008

Thesis Co-Advisors:

Christopher Twomey
Alice L. Miller

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**CHINESE INVOLVEMENT IN “MARITIME AGREEMENTS” WITHIN THE
ASIA-PACIFIC: REDUCING RISKS AND PROVIDING REASSURANCE**

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Submitted in partial fulfillment of the
requirements for the degree of

**MASTER OF ARTS IN SECURITY STUDIES
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from the

**NAVAL POSTGRADUATE SCHOOL
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ABSTRACT

This thesis examines the state of maritime operations in the Asia-Pacific region conducted by the People's Republic of China (PRC) since Beijing's admission to the United Nations in 1971. The goal is to develop a historical understanding of Chinese militarized incidents at sea and assess the ability of current Chinese maritime agreements and international institutions to reduce such incidents in the future. The data compiled in this paper can help facilitate future United States and PRC maritime agreements and, more generally, cooperation. Understanding the current nature of Chinese engagement can help to recalibrate our measurement standards along with our goals for future talks.

To foster successful maritime cooperation between the United States and China adherence to several principles will greatly increase the chances of that relationship's success: building on common interests, utilization of confidence building measures (CBMs), basing cooperation on domestic (i.e., national) laws, building mechanisms for predictability, and, finally, ensuring an operating environment with both tactical and "political" space.

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I. INTRODUCTION

This thesis examines the state of maritime operations in the Asia-Pacific region conducted by the People's Republic of China (PRC)¹ since Beijing's admission to the United Nations in 1971. The goal is to develop a historical understanding of Chinese militarized incidents at sea and assess the ability of current Chinese maritime agreements and international institutions to reduce such incidents in the future.

The purpose of this thesis is to answer the question to what extent can existing international legal agreements reduce the risks of a Chinese "naval incident" and mitigate the causes of future conflict? First, in what areas can there be an expectation of potential conflict between a rising China and predominate U.S. maritime presence? Second, to what extent can existing international institutions reduce risks of an incident and provide reassurances to all involved parties? Finally, what specific issues should future agreements seek to address in order to both reinforce key elements already in existence and fill potential holes in policy?

In order to properly facilitate a complete analysis of Chinese maritime agreements Chapter I of this thesis constructs a framework from which to begin the examination. First, the recent historical context that China has experienced since the early 1970s are summarized. Second, Chapter I turns to the potential sources and methodology to be used to facilitate this study, more generally. Third, a sketch of the arguments made throughout the paper are outlined to facilitate understanding of each segment's contribution to the overall thesis. Fourth, the last portion of this chapter clearly defines the point of departure for the individual and overall arguments made for the whole of the thesis.

¹ For the purposes of this paper the term "China" will be used to refer to the PRC. The author recognizes the real world situation surrounding the People's Republic of China and Republic of China and the use of the term "China" in this paper is in no way an assertion on either side of the dispute, rather, this term is used for clarity of argument.

A. A MARITIME CHINA

The PRC is on a meteoric rise in both wealth and power. The combination of the sheer number of people, over 1.3 billion people in 2004, and the country's rapid economic growth- ranked fifth in the 2007 world rankings with a 9.1 percent average annual increase in real GDP²- portends increasing demand for raw materials and energy, competition for world markets, and attempts to gain influence on the world stage.³ The PRC's economic growth is due in part to the country's efforts at globalization and burgeoning integration into the world markets; markets that are foreign, disparate, and overseas (see Chart 1, an example of China's overseas shipping routes in the case of petroleum). China's globalization and increasing demand for energy points toward a

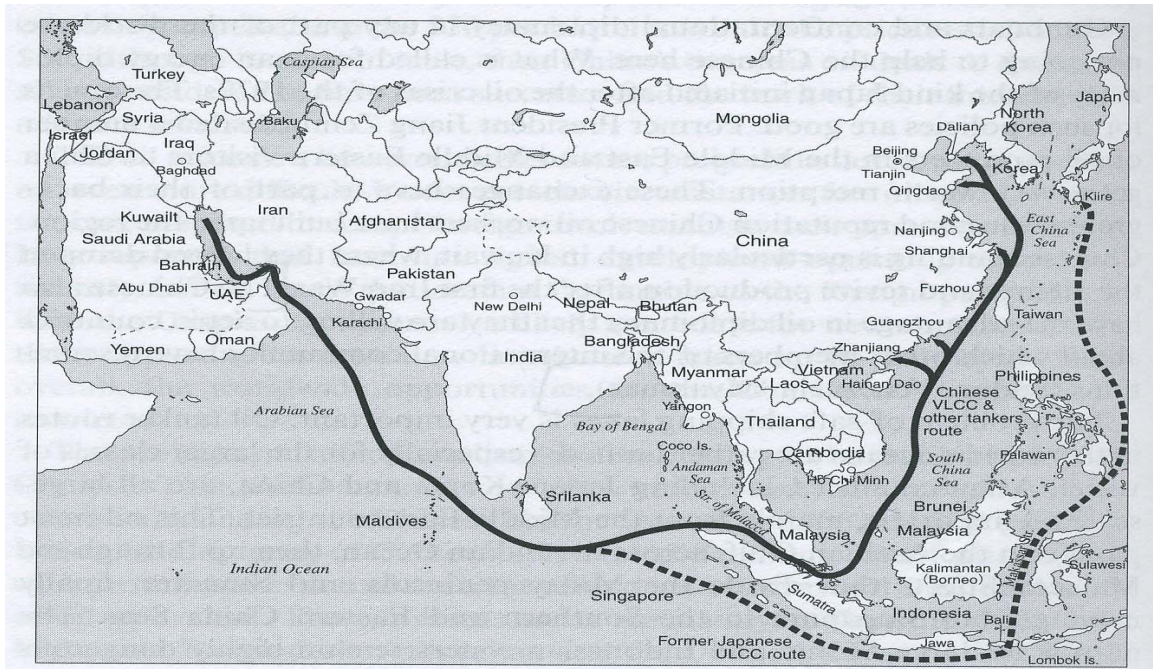


Figure 1. Chinese sea-lane for oil tankers⁴

² Andrea Burgess et al. *Pocket World in Figures: 2007 Edition*, London, The Economist & Profile Books Ltd., 2007: 32, 50-7.

³ Barry Naughton. *The Chinese Economy: Transitions and Growth*, Cambridge: MIT Press, 2007: 3.

⁴ Tatsu Kambara and Christopher Howe. *China and the Global Energy Crisis: Development and Prospects for China's Oil and Natural Gas*, Edward Elgar Publishing, 2007: 124. From Figure 7.2, note: Oil tankers are classified as follows: 50,000-100,000 tons, ordinary tankers for ocean voyage; 200,000-300,000 tons, Very Large Crude Carrier (VLCC); 400,000-500,000 tons, Ultra Large Crude Carrier (ULCC).

future where, “given the Chinese government’s inability to manage crises effectively and China’s increasingly aggressive behavior, maritime incidents are potentially the most volatile issue in U.S.-China relations.”⁵

While China’s effort to expand its influence will be felt throughout the world, the most pronounced ramifications of the PRC’s expanding prominence will be felt in the Asia-Pacific region. Moreover, shipping will become, if it has not already, a vital aspect of the PRC’s national interest and, by extension, their national security. Since 2000, China has experienced over 5 percent growth in maritime transport every year and finally broke into double-digit growth in 2005 with a 10.3 percent growth rate.⁶ The importance of the maritime aspect of the Chinese economy is a result of the legitimacy that the Chinese Communist Party’s (CCP’s) regime ties to the PRC’s continued economic development.⁷ It would seem only logical then, that the PRC would look to maintain a sphere of influence within the Pacific Ocean in order to ensure the unhindered continuation of those interests. These sentiments are clearly espoused in the publication *China Military Science* where the Chinese argue that the new mechanism for power will be international institutions, that the maritime realm will hold great influence on international relations, that the Asia-Pacific will emerge as the central playing field in the maritime realm, and that due to these factors continued development of Chinese maritime capabilities and capacity is a vital national interest.⁸

The confluence of a 21.7 percent increase in maritime transport within the Asia-Pacific region and the progress of the People’s Liberation Army Navy (PLAN) towards a 21st century “Blue Water” Navy portends a China that will begin to compete for maritime influence with the United States, the current guarantor of security and stability on the

⁵ John J. Tkacik, Jr. “Needed: A Realistic Look at China Policy,” *Executive Memorandum, The Heritage Foundation*, no. 907, December 2, 2003: 2.

⁶ UNCTAD Secretariat. *Review of Maritime Transport*, 2006, New York and Geneva, 2006: 8-10.

⁷ Bernard D. Cole. *The Great Wall at Sea: China’s Navy Enters the Twenty-First Century*, Annapolis: Naval Institute Press, 2001: 3.

⁸ Yan Youqiang and Chen Rongxing. “On Maritime Strategy and the Marine Environment,” *Zhongguo Junshi Kexue [China Military Science]*, Vol 2, Beijing, May 20, 1997: 81-92. Translation from <http://www.Opensource.gov>, accessed: March 18, 2008, document: FTS19971010001256.

high seas.⁹ How this competition plays out, whether in a peaceful, civil manner or in a more hostile fashion, will be greatly influenced by how the maritime realm is governed. The particulars of the maritime agreements and international institutions that China takes part in will directly impact the daily interaction within the Asia-Pacific region. While maritime agreements are not a panacea, they can militate against conflict within the broader Asia-Pacific by removing some of the potential flashpoints through prior negotiations.

There is a need to examine the extent to which the international law is applicable to current issues. Specific “maritime agreements” should be part of other, broader international laws that can help China’s increased interaction with the rest of the world continue peacefully. The issues that need to be addressed include misunderstandings that can escalate tensions, navigational, and specified use (fishing and mineral) rights and privileges.¹⁰ Additionally, territorial disputes and maritime disorder (piracy and criminal activities) could all lead to conflict if there is not sufficient capacity and capability within the international institutions intended to govern.

B. METHODOLOGY AND SOURCES

Maritime law is not a recent development; rather, it has been constantly evolving over the years that man has been on the high seas.¹¹ However, there is a very recent addition to long standing precedents that is affecting the high seas, the UN’s Convention on the Law of the Sea (UNCLOS), passed in 1982 and finally brought into effect in 1994.

⁹ UNCTAD Secretariat. *Review of Maritime Transport*, 2006, New York and Geneva, 2006: 8-10. For a discussion on China’s prospects for a “Blue Water Navy,” see also: Cole. *The Great Wall at Sea*.

¹⁰ For a discussion on the importance of international legal agreements see generally: Mark J. Valencia. “Regional Maritime Regime Building: Prospects in Northeast and Southeast Asia,” *Ocean Development & International Law*, Vol 31, 2000: 229 (223-247).

¹¹ For a starting point on maritime law see Hugo Grotius’ late 16th century *The Free Sea*; Hugo Grotius. *The Free Sea*, 1578-1645, ed. David Armitage, trans. Richard Hakluyt, Indianapolis, IN: Liberty Fund, 2004. Also, UNCLOS available: http://www.un.org/Depts/los/convention_agreements/convention_overview_convention.htm. Accessed: November 7, 2007.

With the passage of UNCLOS taking up the majority of the scholarly focus over the past decade, a broader, big-picture view of the current state of maritime law in the Pacific Ocean is lacking.

One of the few authors who endeavor to examine many of the broader issues at play within the East Asia-Pacific region is Mark J. Valencia. Despite being one of the most prolific authors on all subjects surrounding Asian maritime issues, he does not address historical precedent from maritime incidents as it applies to the broader treaties, agreements, and protocols that govern current maritime operations within the Asia-Pacific region. In fact, Valencia points out some requirements for future research while writing in *Marine Policy* 29, specifically, “fact-finding regarding previous incidents; ... the means and manner of enforcement of any agreed rules; and suggestions for policy.”¹²

In looking at the current body of international legal agreements that are applicable to the maritime realm in the Asia-Pacific, the UNCLOS is by far the most applicable treaty but definitely not the only one. The next significant example would be the Military Maritime Consultative Agreement (MMCA), which recognizes “the need to promote common understanding regarding activities undertaken by their respective maritime and air forces.”¹³ Additionally, there are several agreements that have a less ambitious scope and instead was focused on nuanced areas of maritime operations such as the International Convention on Maritime Search and Rescue (SAR). Finally, there is the need to consider the extra- and intra-regional conferences that attempt to develop initiatives regarding various maritime facets. Some examples of these groups include the Council for Security Cooperation in Southeast Asia (CSCAP) and the Western Pacific Naval Symposium (WPNS).

There are a myriad of sources for a broader perspective on the Asia-Pacific region as it pertains to China, most of these attempting to answer the question, “will China

¹² Mark J. Valencia and Kazumine Akimoto. “Report of the Tokyo meeting and progress to date,” *Marine Policy*, Vol. 29, Elsevier, 2005: 101-106.

¹³ “Agreement between the Department of Defense of the United States of America and the Ministry of National Defense of the People's Republic of China on Establishing a Consultation Mechanism to Strengthen Military Maritime Safety,” Department of Defense, available: <http://www.nti.org/db/china/engdocs/milmarag.htm>, accessed: August 27, 2007.

become a stabilizing or destabilizing force in the Asia-Pacific region” rather than looking at the particular maritime aspect of this stability.¹⁴ While there has been an increase in focus on maritime issues with the implementation of the UNCLOS, overall there is a lack of total coverage integrating all manner of maritime agreements. Combining several authors’ coverage of varying historical events will help provide the proper context to examine the current state of maritime law. On the other hand, there have been several examinations of the broader international institutions impact on naval and maritime issues. Examples of these larger institutions include the U.N., ASEAN, CSCAP, and the myriad military-to-military programs that China is starting to participate in.¹⁵

C. ORGANIZATION OF THESIS

Chapter I of this thesis provides the basic framework for further examination of the issues regarding Chinese involvement with maritime agreements. As outlined in the beginning of the chapter, this portion of the thesis focuses on background information, sources, methodology, organization, and, most importantly, definitions of terms and the problem, more generally. In the chapters that follow this thesis examines the fundamental issues surrounding Chinese involvement with inter alia maritime agreements as traced out below.

In Chapter II, a look at what international institutions prior abilities have been is needed. First, what international legal agreements are relevant to the maritime realm and specifically in regards to the Chinese situation? Establishing the relevance will bound the range of problems that we can reasonably expect to be dealt with by those treaties. Additionally, how well do the relevant treaties cope with those problems and do those abilities have any caveats or limited applicability, such as with potential military rivals or sea lines of communication (SLOCs)? Further, China’s potential rise to maritime

¹⁴ Rex Li. “China and Asia-Pacific Security in the Post-Cold War Era,” *Security Dialogue*, International Peace Research Institute, Oslo, Sage Publications, 1995. See also: Mark J. Valencia. *A Maritime Regime for North-East Asia*, Hong Kong, Oxford University Press, 1996.

¹⁵ For a discussion on the broader international institutions and their impact on naval and maritime issues see: for Strategic issues, Bruce Vaughn, “U.S. Strategic and Defense Relationships in the Asia-Pacific Region,” CRS Report to Congress, 22 Jan 2007. See also, Kevin Pollpeter, “U.S.-China Security Management: Assessing the Military-to-Military Relationship,” RAND Corporation, 2004.

competition with the United States lends itself to a comparison with the relationship between the United States and the Soviet Union agreed to in the “1973 Incidents at Sea” treaty. Specifically, how do these countries’ relationships compare to each other and what direct comparisons can be drawn for future implementation?

Following the general discussion on international institutions and legal agreements ability to address the causes of “naval incidents”, Chapter III takes a more specific look at China’s involvement with such agreements. The first set of applicable institutions is international legal agreements such as the UNCLOS. Next, there are several organizations that discuss policies but do not make any binding agreements. Additionally, to further draw out Chinese proclivities regarding maritime agreements, all of the treaties registered with the UN and the International Maritime Organization (IMO) will be compiled and analyzed. Finally, what is the level of Chinese compliance with each of these international agreements and organizations?

Subsequent to the perspective on both the theoretical and actual abilities of China’s maritime agreements, Chapter IV examines Chinese “naval incidents” since Beijing’s admission into the UN. This thesis does not attempt an in-depth analysis of each incident, but rather looks at the broader trends regarding factors and causes of “naval incidents.” Coupling each historical incident with their causes and exacerbating factors gives a broad overview of what circumstances could lead to increased tensions, within the Asia-Pacific region and with regard to China. Understanding and cataloging historical examples provides a sounding board for the current treaties, agreements, and protocols that govern maritime activities in the Pacific Ocean. Also, further dissecting each occurrence, a detailed account of what the root causes were for the inception of the incident, along with any exacerbating factors frames each instance. Historical examples are drawn from a variety of sources: any available accounts of incident reports, governmental Congressional Research Service (CRS) reports regarding individual situations, as well as journal, periodical, and internet articles discussing any of the incidents.

Finally, Chapters V and VI deal with the analysis of the data compiled and offer recommendations for future policy choices. These assessments and conclusions are

drawn from the empirical data studies conducted in Chapters II, III, and IV. These data augment more anecdotal evidence drawn from some secondary sources as well as interview responses from several policy experts in the field.

D. SCOPE, DEFINITIONS, AND ASSUMPTIONS

Moving forward, the presence of the PRC on the world stage and within the Pacific Ocean needs to be dealt with. The question that most are asking deals with what type of China that the United States will need to deal with rather than the mechanisms needed to deal with that China. While the nature of the Chinese development, whether peaceful or bellicose, is no doubt important regarding implications for the long-term, this thesis will assume that uncertainty and avoidance are not the best methods to forestall tensions or conflict in the Pacific Ocean. Instead, preempting assumptions via explicit policies and engagement is the path to preventing most future conflict.

To properly address this topic, this thesis limits its scope to historical cases after the UN's acceptance of Beijing as the government of China. Incidents that have occurred since this date reflect the same basic maritime order that still exists today, namely, that the United States is the guarantor of both freedom of navigation and security on the high seas, and in the Pacific Ocean specifically. Additionally, this time period marks China's emerging status in the world order, specifically its continued involvement in the global maritime commons.

Another potential for increasing the reach of this thesis would be in the form of classified information. While this tack would seem to have the potential to add insightful and meaningful depth to the discussion, this thesis will keep the argument to an unclassified level. The author also argues that, while potentially very interesting, any of the historical examples that could possibly be gained from the classified level would not have any discernible impact on the analysis of PRC's foreign policy. This is due to the mere fact that if those events are still classified, they were most likely dealt with at the classified level and not by the unclassified treaties, agreements, or protocols designed to handle various occurrences.

Instead, a focus on the unclassified, germane historical examples will help assess the factors that could shape the current maritime situation in the Pacific Ocean for the PRC and, more generally, for the United States. The comparison of the various examples of international legal agreements should sketch a picture of the current state of affairs, specifically pointing out where potential flashpoints may develop unchecked by current maritime governance. If this comparison illuminates a hole in the coverage between the precedent and the actual, then it will be quite obvious what issues must be addressed in order to bridge the gap. If all the historical reasons for increased tension are addressed, then the question becomes what areas need to be reinforced to ensure no future lapses in coverage occur. This thesis looks at whether these issues are addressed well and, if not, how they could be dealt with in the future to prevent unintended escalation after an incident.

The implications of this assessment of international legal agreements in the maritime realm are salient for assessing emerging patterns of cooperation and conflict within the Asia-Pacific region. What is germane for future policy implications is how the United States can shape and use the international legal agreements and institutions within the Asia-Pacific in order to prevent an escalation in tensions with the PRC and advance U.S. national interests.

To what extent do international institutions use maritime agreements to reduce the risk of a Chinese naval incident and how do those same institutions provide reassurances to the various actors involved? This question is important in understanding the nature of both the existing system of international institutions and the possible extent of future agreements. There are many forms and derivatives of organizations that perform governance in some manner throughout the world, with the words used to describe them just as varied. Since these terms have meant a great deal of things to a great number of people and to prevent any chance for misinterpretation, a common understanding is needed for the terms: “naval incident,” “maritime agreement,” “international legal agreement,” and “international institutions” or “maritime regime.”

The sounding board that this paper uses to test these various maritime agreements against will be any “naval incidents” where China had a role. “Naval incidents” should

be viewed as encompassing more than just explicit combat by the PLAN. A broader perspective is needed, taking into account any maritime incident, or group of actions, that involved some measurable show of force, either posturing or actual use of it. What a naval incident is not is just as important as what it is. A naval incident does not include any occurrence between various maritime actors that does not involve a state's military forces, particularly the naval forces of that country. However, naval incidents are events that occur within the maritime environment that require the use of a country's naval (or military) forces, either in action or in threat of action. Moreover, the distinction between threats and action is irrelevant to the effect of international institutions so long as naval or military forces are involved in some fashion.

Viewed in a hierarchical manner from the rudimentary to the most complex (also, synonymous with the level of commitment required from the participants), the first order of international institutions comprises the various informal councils, discussions, and consortiums that are used to open dialogue between nations and act as the first layer diplomatic engagement. These groups can form either ad hoc or on a more regimented basis and can result in understandings that are either formally signed or informal, unsigned agreements.¹⁶

Maritime agreements comprise the second order of governmental mechanisms used by states. A maritime agreement can be either signed or unsigned and must deal with some issue pertaining to the maritime or its effects and conduct therein. To answer the original question of this paper, only those maritime agreements that have some direct or indirect impact on the security environment for which they are written are examined. However, for this thesis, the term "maritime agreements" is used to refer to all international maritime treaties, agreements, and protocols in which the Chinese government participates. An additional constraint is placed on the international legal agreements that are examined, limiting the scope of inquiry to include only those that the PRC, or the PLAN by extension, has signed.

¹⁶ A note on unsigned treaties or agreements for this paper: if it is unsigned it has to have some form of documentation to prove the actors are participatory, or at least tacitly amenable to it (e.g. a statement, a declaration, etc.).

Functioning as a bridge to the next order of government, international legal agreements, similar to maritime agreements, are circumscribed to a narrow issue. However, the key distinction is that these are formal, signed agreements that could have a larger overall structure but are still germane to a specific maritime issue. In other words, any legal agreement between two or more countries that covers a specific policy area pertaining, in some fashion, to the maritime realm.

The final governmental order is comprised of international institutions or maritime regimes. Mark J. Valencia views regimes as:

...sets of implicit or explicit principles (beliefs of fact, causation, and rectitude), norms (standards of behavior defined in terms of rights and obligations), rules (specific prescriptions or proscriptions for action), and decision-making procedures (prevailing practices for making and implementing collective choice) around which actors expectations converge... Implicit in this definition is that regimes can define the range of permissible state action by outlining explicit injunctions.¹⁷

Valencia's definition of regimes is particularly insightful and succinct. However, two additional characteristics should be noted. One, that international institutions or maritime regimes are organizations consisting of more than one state and that are comprised of multiple maritime agreements or international legal agreements. Two, these are agreed to either in signature, by verbal acknowledgement, or in practice (i.e. the state/actor has performed according to the agreements of the Institution or Regime *more than once*).

More generally, specific "maritime agreements" should be part of other, broader "international institutions" and "maritime regimes" that can help China's increased interaction with the rest of the world continue peacefully. The issues that need to be addressed include misunderstandings that can escalate tensions, territorial disputes,

¹⁷ Valencia. "Regional Maritime Regime Building," 225. *Footnote #10*: Drawn from Stephen D. Krasner, "Structural causes and regime consequences: Regimes as intervening variables" in *International Regimes*, ed. Stephen D. Krasner (Ithaca: Cornell University Press, 1983), 1–21; and, Robert O. Keohane, "The demand for international regimes," *International Organization* 36, no. 2 (1982): 325.

navigational, and specified use (fishing and mineral) rights and privileges.¹⁸ Additionally, “emerging regional security concerns such as piracy, pollution from oil spills, safety of sea lines of communication, illegal fishing, and exploitation of others' offshore resources” could all lead to conflict if not sufficiently addressed by the appropriate international institutions that govern the area.¹⁹ More specifically, there needs to be immediate emphasis on the least committed end of the agreement spectrum, with long term planning for dealing with the more complicated and delicate issues.²⁰

¹⁸ For a discussion on the importance of international legal agreements see generally: Valencia. “Regional Maritime Regime Building,” 229 (223-247).

¹⁹ Valencia. “Regional Maritime Regime Building,” 224.

²⁰ Mark J. Valencia. “A Maritime Security Regime for Northeast Asia,” *Nautilus Institute*, Policy Forum Online 07-065A, 30 August 2007, online: <http://www.nautilus.org/fora/security/07065Valencia.html>, accessed: September 3, 2007.

II. HISTORICAL TEMPLATES FOR FUTURE CHINESE COOPERATION: THEORY, INCSEA, AND THE U.S.-SOVIET RELATIONSHIP

Maritime regimes are constructed of multiple levels and various facets, yet a key in understanding them comes with an understanding of the theory behind the structures. Additionally, any analysis of the theory behind maritime agreements needs to be juxtaposed with a historical context in order to lend an understanding of future potential. First, to look at the structure this chapter will examine some of the theory behind international institutions, treaty development, and regime sustainment. Specifically, do maritime regimes have any distinguishing characteristics that are universally applicable or are they case specific? What issues do maritime regimes deal with well and what issues do they typically have problems dealing with? Also, what cases are relevant for the Asia-Pacific region in general? More specifically, this chapter will provide the historical understanding needed to ensure that the expectations set for future Chinese maritime agreements are realistic and in line with previous successes and failures.

Second, the next portion of the chapter will take an in depth look at a previously successful treaty, specifically, the “1972 Incidents at Sea” treaty (INCSEA). There are several important reasons for this comparison, but primary among those is the fact that the agreement was successful in helping forestall conflict between the two superpowers of the Cold War. Secondly, if China continues to grow at its continued pace, it will be in the position to challenge the United States, even if the nature of that challenge is different than that posed by the Soviet Union.

Third, this chapter will build on both the theory and the historical analysis by comparing the country that was involved in the original agreement, the Soviet Union, with the country for which future applicability needs to be measured, the PRC. While the INCSEA treaty is being used as an example of a successful treaty, there may be some provisions that are more applicable than others due to changing circumstances. In analyzing these aspects of maritime institutions this paper will turn to the data compiled by the Correlates of War (COW) project for the baseline data that will be used to

compare each of the countries. This data, while not all-inclusive, is particularly exhaustive in the realm of conflict causation and will be sufficient to draw the similarities and differences between the PRC and the Soviet Union.

A. INTERNATIONAL INSTITUTIONS, AGREEMENTS, AND TREATIES

1. Generalities and Theory

Some scholars argue that for security management institutions “power and selfish, national interests remain important in security relations.”²¹ However, what is also important is not necessarily why the security regime is dealing with a problem, but rather the method it uses to cope (i.e., the important variable is “path-dependent”).²² Additionally, these institutions form in small steps, escalating one step at a time in response to a certain issue.

While a state’s self interest does seem to have some impact on the formation of security institutions, the various other mechanisms at play when security institutions form are myriad, multifaceted and ever-changing. Several characteristics bridge the theoretical divide and are generic in the formation of security management institutions:

1. State’s self-interest. While the practice of divesting power to a security institution seems to run counter to the notion of a state’s sovereignty, it can actually work to its benefit in the long run (i.e., to receive long-term gains, states are willing to give up short term power).²³
2. “Dilemma of Collective Goods”²⁴. Some sort of external event that is the object of either “collective aversion” or “collective interest,” an event whose “origin is [some] combination of imposition, spontaneous processes, or negotiation.”²⁵ Additionally, at the point when a regime is formed a state’s security has moved beyond the point where its military alone can assure its safety. Instead, states

²¹ Helga Haftendorn, et al. *Imperfect Unions: Security Institutions over Time and Space*, New York, Oxford University Press, 1999.

²² Ibid.

²³ Janice G. Stein. “Image, Identity, and the Resolution of Violent Conflict,” Chapter 12, *Turbulent Peace: The Challenges of Managing International Conflict*, eds. Chester A. Crocker, et al., Washington, U.S. Institute of Peace Press, 2001: 189-208.

²⁴ Valencia. “Regional Maritime Regime Building.” 227.

²⁵ Ibid, 227.

- must actively engage in the “basic standards of good neighborliness” to ensure their safety and survival.²⁶
3. Confluence of events. According to one scholar, catalysts for formation of security regimes are “issue density and a tight linkage of ideas” between the issues.²⁷
 4. Structure. The framework that allows the security regime to form is equally important to its goals and objectives.²⁸ This structure can affect how the cooperation plays out and not all the outcomes result in security regimes (Figure 2).²⁹
 5. Cost vs. Benefit Analysis. Essential for the successful formation and sustainment of a security regime is its ability to affect the cost-benefit analysis of states that are involved.

	Threat	Risk
Inclusive	Collective Security	Security Inst. & Regimes
Exclusive	Alliance	Out of Area Coalitions

Figure 2. “Variation in Security Coalitions” (From: Haftendorn, *Imperfect Unions*)³⁰

In any security regime the delineation of what actions are compliant or non-compliant becomes vitally important, creating an atmosphere where reputations matter and non-compliance is increasingly costly.³¹ One scholar also describes the importance

²⁶ Valencia. “Regional Maritime Regime Building,” 224.

²⁷ Haftendorn, et al. *Imperfect Unions*, 27. See also: Robert Jervis. “Security Regimes,” *International Organization*, Vol. 36, No 2, Spring, 1982: 357-378.

²⁸ Jervis. “Security Regimes,” 357-378.

²⁹ Figure 1 is from Figure 1.1 in: Haftendorn, et al. *Imperfect Unions*, 27.

³⁰ Haftendorn, et al. *Imperfect Unions*, 27. Figure reprinted verbatim from Haftendorn et al., who retain full copyrights.

³¹ Jervis. “Security Regimes,” 357-378.

of reputation, sustainability, reciprocity, and repetition in negotiations and individual actors' willingness to enter or negotiate within regimes.³² Over time, this can lead to an internalization of the values and norms of the very institutions or regimes that create them. An important aspect of this internalization is the ability of epistemic communities to affect the calculations of what actually is the state's self-interest (i.e., it is the ability to shape the definition of self-interest that matters).³³

2. Maritime's Reality

With the theory behind the costs and benefits of international security regimes, what aspects of the treaty are applicable to a regional maritime regime? Specifically, what would a maritime regime for the Asia-Pacific need to address or what hurdles could be expected while building such a regime? First, what can a maritime regime hope to provide? One author seems to think that:

Regimes fill one or more of three critical needs: (1) they establish a clear legal framework with liability for actions; (2) they improve the quality and quantity of information available to states; and (3) they reduce transaction costs.... Regimes thus create the conditions for orderly multilateral negotiations, legitimate and de-legitimate different types of state action and facilitate linkages among issues.³⁴

Second, expounding on this basis of security regimes is a stipulation that maritime security regimes are a "system of governance [with] structure, objectives, functions, powers, processes, and programs."³⁵ These five traits are key to assessing the viability of various regimes around the world and in examining any regimes for the Asia-Pacific. There are two important aspects of these five traits to look at while assessing a maritime security regime, namely the objectives and the functions.

The second half of the maritime regime assessment looks at the functions within those regimes. The varying levels of development may not be clearly distinguishable in

³² Valencia. "Regional Maritime Regime Building," 227 (223-247).

³³ Ibid, 227.

³⁴ Ibid, 226.

³⁵ Ibid, 231.

operation, but there is a sufficient division to be useful in analyzing maritime security regimes. The four levels of functions within maritime regimes are:

[The] first level involves service, that is, information exchange...A [second] higher functional level involves norm creation and allocation, which includes the establishment of standards and regulations and the allocation of costs and benefits. The third level, “rule observance,” includes the monitoring and enforcement by the regional organization of the norms and agreed standards. At the highest functional level are “operational” multilateral organizations concerned with implementing the norms for management of resource exploration and exploitation activities, technical assistance, research analysis, and development.³⁶

Largely, maritime regimes look to foster cooperation over narrowly defined sets of problems and issues. However, over time, if success is first achieved, the regime can hope to expand its influence and coverage by the mere nature of regimes.³⁷ However, this change will depend on the reciprocity of the parties involved, as well as the shared set of goals needed to begin such an undertaking.

While there are many things that a maritime security regime cannot do (not to discuss whether or not it should), there are equally many issues that they can handle well. Maritime regimes should only be expected to grow slowly and not in a rapid or comprehensive fashion. The laborious, time-consuming process needed to develop regimes that help to assuage the fears of status quo states. By slowly chipping away on an issue, maritime regimes address issues in a manner that can be equally acceptable, or at least palatable, for all actors involved. While this can seem tedious if only using results as the measuring stick, the incremental process is essential to develop a certain degree of acceptance for each new policy measure. Any extra time given to normalization and internalization prior to subsequent policy implementation increases the effectiveness, potency, and chances of success for a maritime regime.

Additionally, maritime security regimes can act as a conduit for communicating issues and grievances. The ability of maritime regimes to provide a standardized set of

³⁶ Valencia. “Regional Maritime Regime Building,” 227.

³⁷ G. John Ikenberry. “Institutions, Strategic Restraint, and the Persistence of American Postwar Order,” *International Security*, Vol. 23, No 3, Winter 1998/99: 43-78.

operating protocols is critical to its success. The procedures provide a framework for states to acknowledge status quo behavior, with definitions and means to monitor non-compliance, thereby providing an excellent venue for signaling. This “track two” communication is crucial for governments that need to execute foreign policy away from their domestic or, sometimes, international audience.

A by-product of facilitating communication for maritime security regime is the establishment of an epistemic community. These informal groups, when brought into frequent contact can form bonds that encourage developments in problem areas by breaking down barriers to understanding. These communities also disseminate norms and values of the regime through discussion and dissection of policies and issues.³⁸

In addition to those things that maritime regimes can do well, there are several items that should not be dealt with by a maritime regime. First, the prevailing political situation will trump most regimes and could derail any previous gains unless significant roots have not been planted already. Deep seated political inclinations and stereotypes cannot be changed by a maritime regime. However, these political inclinations can be swayed with time spent engaged in these cooperative efforts and not any by any specific mechanisms of the maritime regimes. Second, even though maritime regimes currently exist in some fashion, many have not moved past inception. While increasing globalization has increased awareness of maritime issues, the catalyst that is needed to solidify the establishment of these maritime regimes is still lacking.

Finally, and perhaps the greatest challenge to maritime regimes, is the issue of time. Many of the gains that such regimes can offer increase as time goes on, increasing the benefits for cooperation concurrent with increasing the costs of loner behavior.³⁹ The length of time needed is often greater than many domestic, or perhaps international, political cycles and it is difficult for politicians and managers to realize the payoff for cooperation. Therefore, the challenge is to convince states that cooperation is working in their benefit. This is another good reason to use small, incremental steps and processes

³⁸ Valencia. “Regional Maritime Regime Building,” 227.

³⁹ Jervis. “Security Regimes,” 357-378.

for managing maritime security regimes, perhaps giving all parties small, incremental spoils to demonstrate the benefits of the regime.

B. HISTORICAL PRECEDENT: 1972 “INCIDENTS-AT-SEA”

Despite the myriad and vigorous saber-rattling incidents that both sides of the Cold War (i.e., the United States and the Soviet Union) engaged in, neither side sought a conflict born out of confusion or an unintended catalyst. As the Cold War was reaching its height in the 1960s, the Soviet Union’s maritime activities were undergoing dramatic changes concurrent with heightened military tensions. The confluence of increasing military tensions and burgeoning Soviet maritime presence led to numerous “naval incidents” between the two superpowers, with many accusations and complaints lodged by both sides.⁴⁰ With a common anathema recognized, the United States and the Soviet Union had the incentive to create a mechanism that could forestall just such an unintentional conflict. The product of this cooperation resulted in the Agreement between the Government of The United States of America and the Government of The Union of Soviet Socialist Republics on the Prevention of Incidents On and Over the High Seas, more commonly known as the 1972 Incidents-at-Sea Agreement (INCSEA).⁴¹

1. INCSEA: The Background

After the end of World War II the Soviet Union faced a completely new world order where their view was largely shaped by both their loss of 22 million people and the emergence of the United States as the sole superpower. The confluence of these two factors led the Soviets to view the world through a national security lens that shaped their foreign policy during the beginning of the Cold War. Moreover, the Soviet Union’s

⁴⁰ For U.S. and Soviet examples see: David F. Winkler. “The Evolution and Significance of the 1972 Incidents at Sea Agreement,” *The Journal of Strategic Studies*, Vol. 28, No 2, April 2005: 362-4. Also, footnote #10-13, for discussions and references to many U.S. complaints and cases of Soviet hassling.

⁴¹ For basic regime formation and importance of a catalyst or shared desires, see: Haftendorn, et al. *Imperfect Unions*. For maritime regimes, see: Valencia. “Regional Maritime Regime Building,” 223-247.

development of a forward deployed naval force correlates to other developments within not just their military but also their diplomatic, information and economic spheres of influence.

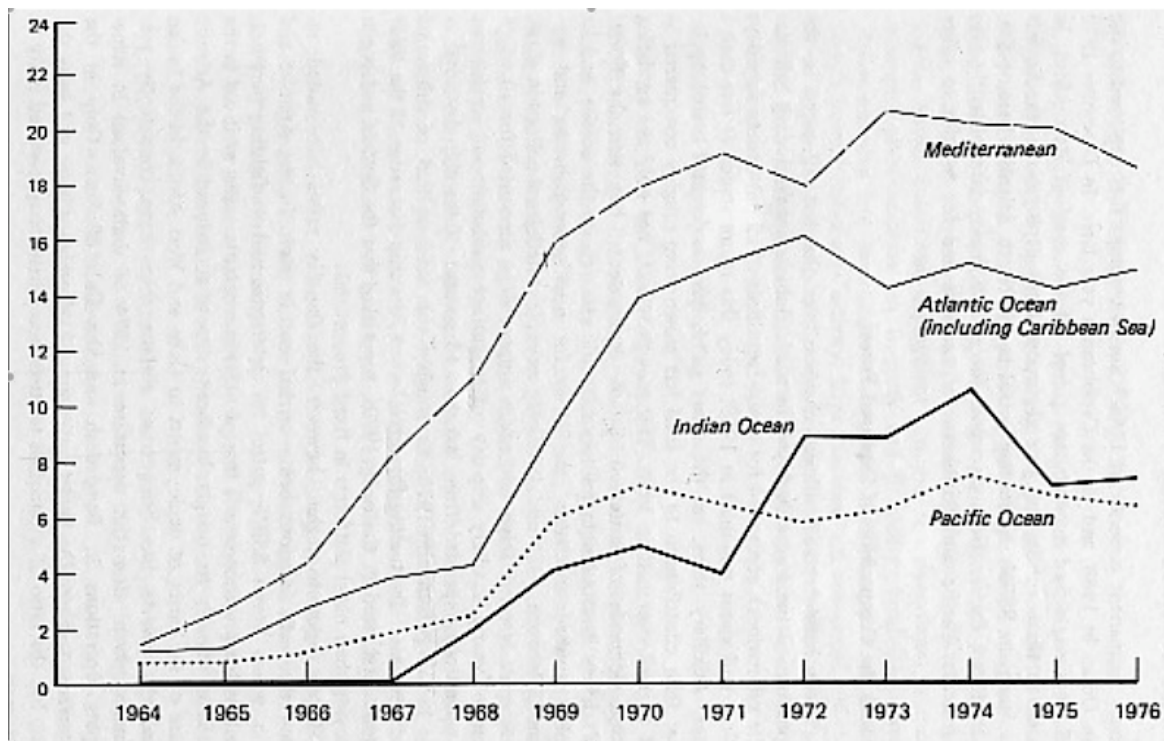


Figure 3. Deployment Level per Region '46-'76 (in Thousands of Ships) (From Dismukes, *Soviet Naval Diplomacy*)⁴²

A key determinant for this change was the shift within the Soviet Naval forces from a littoral force to a navy that was projecting its forces and power throughout the Mediterranean Sea and the world's oceans.⁴³ This increase in sphere of influence is clearly evident not only in the Soviet Union's area of primary concern, the Mediterranean Sea, but also every other major body of water as well (see Figure 3). By the mid-1960s this naval competition accelerated as the Soviet Union began to field a truly "blue-water" navy with the advent and commissioning of several new vessels designed with this

⁴² Bradford Dismukes and James M. McConnell, eds. *Soviet Naval Diplomacy*, Elmsford, Pergamon Press Inc., 1979: 43. Figure reprinted verbatim from Dismukes and McConnell who retain full copyrights.

⁴³ David F. Winkler. "The Evolution and Significance of the 1972 Incidents at Sea Agreement," *The Journal of Strategic Studies*, Vol. 28, No 2, April 2005: 368.

specific capability.⁴⁴ Moreover, 1967 marked the de facto shift in terms of forward presence on the world stage with significant augmentation to their Pacific Ocean force and forays into the Indian Ocean. The Soviet's burgeoning "blue-water" navy was now in a position to exert increasing pressure on U.S. Naval forces around the world.

While there were relatively few overt conflicts between U.S. and Soviet naval forces during the late 1950s, the early 1960s began a new era of increased naval tensions between the two countries. In addition to the developing naval tensions there was also a significant number of incidents involving sundry merchant, commercial, fishing and 'other' (i.e., the so called AGI, or Auxiliary, General, Intelligence) vessels.⁴⁵ Extrapolating potentially useful information from these many incidents can be facilitated by examining each incident for specific characteristics and then grouping those similar incidents together.

In order to have a data set that is comparable to the timeframe being looked at with regard to the PRC, the incidents will be bounded by those occurring after July 25, 1953 (e.g., the signing of the armistice to end the Korean conflict) through the beginning of the Soviet Union's collapse in 1989. Additionally, this study of U.S.-Soviet incidents will be coded from over five hundred incidents recorded in *Cold War at Sea*.⁴⁶ While there are no doubt incidents that were not reported in this collection of incidents, the sample is never the less a broad cross-section of events significant enough to represent the more general trends in the U.S.-Soviet naval relationship.

Each naval incident was coded according to the nature of the incident and assigned a value based on five possible categories: territory, collision, harassment, misperception, and weapons lock. The first category includes incidents in which one of the two sides was within the boundaries of the other nation's territory.⁴⁷ The second

⁴⁴ Winkler. "The Evolution and Significance of the 1972 Incidents at Sea Agreement," 365-367.

⁴⁵ Winkler. "The Evolution and Significance of the 1972 Incidents at Sea Agreement," 362-5.

⁴⁶ David F. Winkler. *Cold War at Sea: High-Seas Confrontation between the United States and the Soviet Union*, Annapolis, Naval Institute Press, 2001: 177.

⁴⁷ This coding is not taking a stance on which side is correct in their assertions or claims regarding a certain geographical area. Instead, this code simply acknowledges that the incident arouse surround one side or another's claims to a particular area.

category includes incidents where at least one vessel from both sides come into contact with each other. Additionally, this category includes those incidents that involved near misses and situations where one side was forced to take evasive action (i.e., last minute or last ditch efforts) in order to avoid a collision. The third category includes those incidents in which there is a perception of malicious intent behind the actions of or repeated efforts to hinder the other state's vessels. The fourth category includes incidents in which one or both of the side's fails to perceive some aspect of the situation that leads to some form of rule breaking. The fifth category involves incidents in which one side aims, positions, tracks, or otherwise engages a ship or aircraft of the other side with a weapon system (i.e., a targeting drill that does not involve any form of live fire). Finally, there is an ancillary category that was coded on top of all the others which involved incidents where one or more of the actors was a land based, non-TACAIR (Tactical Aircraft, i.e., the aircraft does not takeoff or land on an aircraft carrier or other ship) aircraft.

Figure 4 represents all of the incidents that have been coded and compiled into their various assigned categories. The aggregate picture that emerges from this graphical representation of the incidents is one clear period of elevated occurrence prior to INCSEA and a lesser period of incident proclivity afterwards. The first spike in incidents is one of the significant byproducts of an emerging Soviet presence. This increased presence resulted in the collisions, many more near misses, and countless cases of harassment which combined to increase tensions during the second half of the 1960s (*see* Figure 4). A specific episode that exemplifies this was a series of engagements between U.S. and Soviet naval forces in early May 1967 that resulted in two separate collisions. The first of these collisions occurred between the USS Walker and the Soviet Destroyer Besslednyy on 10 May 1967. The second collision was between the USS Walker and the Soviet Destroyer Krupneyy on 11 May 1967.⁴⁸ Both of these collisions involved shouldering, essentially harassment, of the Soviet ships by the USS Walker.⁴⁹

⁴⁸ Winkler, "The Evolution and Significance of the 1972 Incidents at Sea Agreement," 365-6.

⁴⁹ Shouldering is a technique used to essentially harass the other boat by using the technical details of the Rules of the Road to disadvantage the other vessel. While this tactic is widely used in yacht racing, it is not an advisable tactic to use on the high seas as it often leads to collisions.

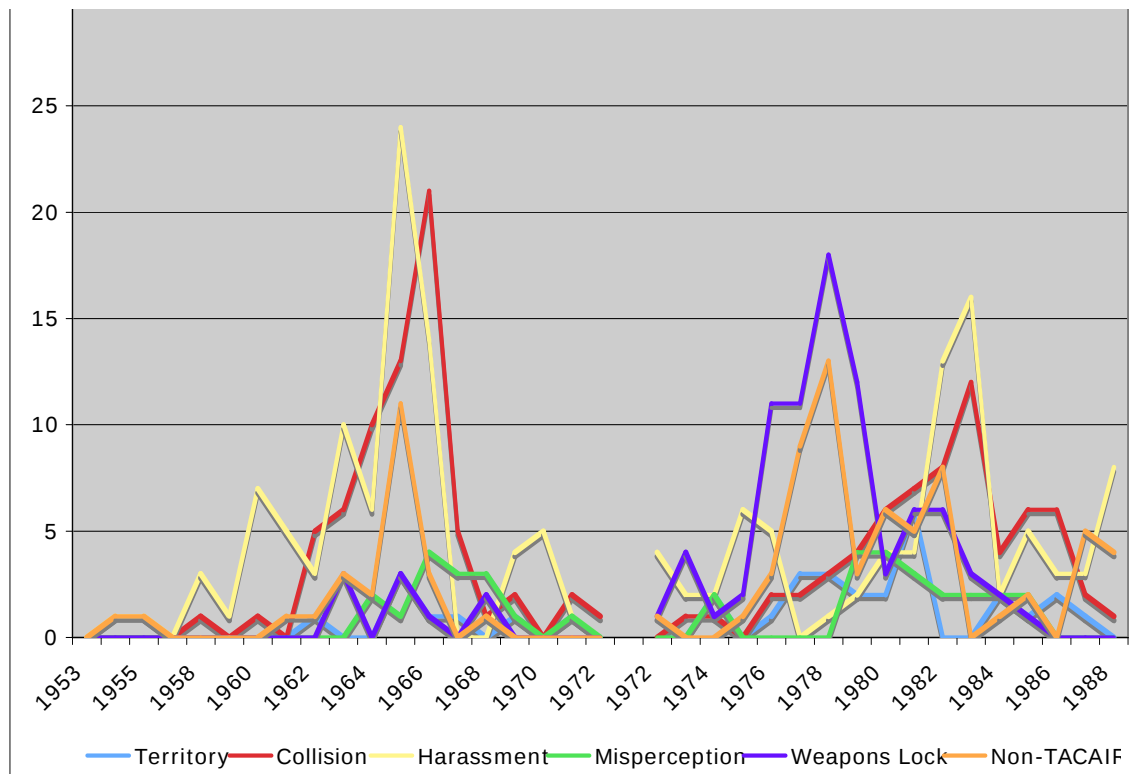


Figure 4. U.S.-USSR Naval Incidents, by Type ('53-'88)⁵⁰

At first glance, Figure 4 appears to depict two distinct periods of increased incidents, one occurring prior to INCSEA and one occurring after INCSEA. Despite this appearance, the increased number of non-TACAIR incidents artificially inflates the second group of incidents. Additionally, this period saw a significant increase in the number of “weapons lock” incidents, which, while being incidents that need to be addressed, are secondary in concern to the occurrence of “harassment” and “collisions.” Looking past these two categories the picture becomes clear that there was a decrease in occurrence of the two issues that were of greatest concern prior to the agreement.

Despite the fact that there was a relative decline in the most egregious incidents after INCSEA, there still remains an elevated incidence of events in the early 1980s that needs to be explained. While some of the naval incidents that occurred were noteworthy,

⁵⁰ Figure created from data coded by the author, from: Winkler. *Cold War at Sea*, 177.

many were not particularly interesting as separate incidents. Instead what is important with regard to these incidents was the fact that each one had the potential to be the spark that could have lit the fuse of a Soviet-American conflict. Additionally, each incident cannot be separated from the larger world situation and the tensions that permeated thinking in Washington and Moscow. These larger events ranged from everything as catastrophic as the Cuban missile crisis, in the early part of the 1960s, to the regional conflicts in the Eastern Mediterranean, Vietnam, and, more generally, Czechoslovakia.

So, in examining why there was an elevated level of incidents in the early 1980s it is necessary to turn to broader U.S. and Soviet situations. First, the Soviet Union had recently invaded Afghanistan in 1979. This is significant because it was the first time that the Soviet Union had used force outside of the communist bloc since WWII. Second, in the United States, Ronald Reagan was just elected President and both his viewpoint and his policies were conspicuously anti-communist. This change in U.S. domestic politics coupled with increased fears about Soviet intentions ushered in a new era of hard-line approaches toward the Soviet Union. The new U.S. attitude manifested itself in the maritime realm in the rapid growth and deployment of the U.S. Navy. The confluence of changing attitudes and increased presence resulted in the increased occurrence of incidents evident in Figure 4.

2. INCSEA: The Formation

Stepping back, what was the impetus behind the agreement itself? By looking for broad trends and characteristics of the incidents both before and after INCSEA's signing some of the reasons behind Washington and Moscow's impetus for the agreement itself can be illuminated. So, if preventing potentially provoking incidents was their goal, what type of incidents did they need to worry about? Generally, most incidents involved some measure of harassment by either side in the form of spying, attempting to disrupt formations and maneuvers, and other such passive-aggressive actions.

Despite the fact that there were a significant number of near misses and outright collisions, these situations were not the most troublesome from the perspective of an unintentional war. While colliding with your adversary's vessel is not at all ideal, and

potentially inflammatory, it is nonetheless an incident that leaves less open for interpretation and is more a function of, or more correctly a failure or lack of understanding of, the Rules of the Road. Further, assuming both sides do not engage in kamikaze attacks, suicide tactics, or the like, there is little tactical advantage to colliding with the opponent's vessel. Therefore, the policy makers who are removed from the action should be able to analyze the incident correctly as an accident without the fog of emotion clouding their judgment. While a collision will no doubt have both sides lodging accusations against the other and those immediately involved with the incident quite agitated, ideally those with the perspective from headquarters will analyze the situation with more perspective. On the other hand, there is no doubt that a collision at sea poses significant risk to the crew and equipment on both sides. There is always the potential to lose both vessels and all of the crew if there were to be a particularly devastating collision. Having a straightforward case of failure or lack of compliance with an acknowledged set of rules stands in contrast to the other incidents which are more likely to breed conflict, like the 83 incidents of harassment and fifteen instances of misperception that occurred prior to the signing of INCSEA.⁵¹

Just what was it about the incidents other than "collisions" that made them so potentially dangerous? This inherent danger was due to the fact that most of these other incidents were left to the interpretation of the individual actors rather than the implementation of some larger policy prescribed by the States or, in the case of the Rules of the Road, by the global commons or *Res Communis*. The enemy to both sides was not the act itself but instead the interpretation of the act or actions of the other side that was so potentially harmful. Specifically, the harassment that was conducted by both sides had the potential to provoke strong emotions on the part of the tactical operators. If these emotions then subsequently affected the judgment of that commander, i.e., "in the heat of the moment," then both sides could find themselves potentially committed to act due to circumstances that in no way reflected their national interests.

⁵¹ Numbers compiled in Figures 4-7. All data for the figures is from, Winkler. *Cold War at Sea*, 177.

3. INCSEA: The Agreement

INCSEA was designed to address the void of norms and accepted conduct for both navies. There was a common need to have the rules and regulations explicitly stated, allowing for a clear distinction of actions that were in compliance or when an act of ‘defection’ was occurring.⁵² Designed with a foundation of the International Regulations for Preventing Collisions at Sea (i.e. the Rules of the Road), the INCSEA developed from various international precedents. In fact, the INCSEA is very specific when it clearly and explicitly states its justification:

The Parties shall take measures to instruct the commanding officers of their respective ships to observe strictly the letter and spirit of the International Regulations for Preventing Collisions at Sea, hereinafter referred to as the Rules of the Road. The Parties recognize that their freedom to conduct operations on the high seas is based on the principles established under recognized international law and codified in the 1958 Geneva Convention on the High Seas.⁵³

With the framework and basis for the cooperation established, the two governments set about normalizing the conduct of their two navies on the High Seas. The specifics of conduct were delineated in articles one through five in an attempt to reduce situations where confusion and misunderstanding could breed undesired outcomes. Article one outlines the specific participants and forces that are covered by the agreement, specifically defining what the terms “ship,” “aircraft,” and “formation” mean. Having these clearly delineated bounds for the agreement provides for a manageable problem for which the agreement is the solution. Without these clearly drawn lines the agreement would most likely have failed due to alternate interpretations by each party depending on their own perspectives on what is and what is not included. Similar to article number one, article number two establishes the basic rules that both parties should follow outside of the specific ones generated by INCSEA. Both article one and two

⁵² Haftendorn, et al., *Imperfect Unions*. Also: Janice Stein. *Behavior, Society and Nuclear War: Volume Two*, eds. Philip E. Tetlock, et al., New York, Oxford Univ. Press, 1991: Chp 1.

⁵³ “Agreement Between The Government of the United States of America and the Government of the Union of Soviet Socialist Republics on the Prevention of Incidents On and Over the High Seas,” 25 May 1972, online: <http://www.state.gov/t/ac/trt/4791.htm>, accessed: July 8, 2007.

provide the building blocks for the agreement itself while at the same time establishing, both figuratively and literally, the baseline “rules of the road.”

Moving to further define the specific intended interactions for the two navies, the agreement outlines some additional intent or meaning on top of the foundation established in articles one and two. The eight sub-paragraphs each handle one particular aspect of seamanship that could potentially lead to an incident even if both sides were adhering to the “rules of the road.” The sixth sub-paragraph is a particularly poignant example of this:

Ships of the Parties shall not simulate attacks by aiming guns, missile launchers, torpedo tubes, and other weapons in the direction of a passing ship of the other Party, not launch any object in the direction of passing ships of the other Party, and not use searchlights or other powerful illumination devices to illuminate the navigation bridges of passing ships of the other Party.⁵⁴

The expanded regulations outlined in article three are handled in a particularly adroit manner. Specifically, they are written in such a way to provide the intent of the rules without placing too narrow a constraint on either side’s tactical commanders. At first this might seem like a clever political trick, to provide the rhetoric for the politicians without giving any teeth to the agreement. But what is really accomplished by the clever wording is enough flexibility for the Captain at sea to conduct operations safely while concurrently placing sufficient limitations to hold him to account should his actions deviate from the nation’s guidance or “strategic intent.”

Articles four and five follow closely with the tone and intent of article three. These two articles further delineate specific responsibilities for commanders operating in close proximity to the other Party’s forces. Additionally, both articles specifically outline the particulars surrounding the use of aircraft, the vessels that carry or launch them, and other aspects of each party’s aviation conducted “on and over the high seas.”⁵⁵

⁵⁴ *Incidents at Sea Agreement, Article III, sub-paragraph 6.* United States and U.S.S.R., online: <http://www.state.gov/t/ac/trt/4791.htm>, accessed: August 7, 2007.

⁵⁵ *Ibid.*

Next, articles six and seven clearly outline terms for additional items of compliance and non-compliance. While the provisions for articles one through seven are not all encompassing, they establish a vital framework for standard behavior. The mechanisms of the treaty also provide for a means of higher-level communication through nuanced behavior and signaling without the need to make open statements to that effect.

The final portion of the agreement puts in place the mechanisms for repeated evaluation and adaptability of the treaty. This is the critical portion of the treaty and the portion that deserves a great deal of credit for its success. Specifically, it is this last portion that makes the treaty durable and flexible enough to ebb and flow with the currents of international relations- specifically the relationship it was meant to foster. Additionally, a unique aspect of the continuation and annual review portions of the treaty was its Navy-to-Navy format, with the State Departments as aides and advisors.⁵⁶

4. INCSEA: The Evaluation

Just what does ‘success’ mean for the INCSEA treaty? In this case, success should be measured in the treaty’s ability to forestall naval incidents, while at the same time successfully facilitating a peaceful resolution to those incidents that did occur. Assuming success, one author views the success of INCSEA as due to several factors: the utility to both sides, the simplicity, the professionalism of both navies in conduct and intentions, the durability of the review process, the agreement’s ability to avoid the political spotlight, and, perhaps most importantly, “INCSEA was easy to verify and made it easy to hold violators accountable.”⁵⁷ While the agreement was no doubt designed to reduce the occurrence of naval incidents, in no way was it meant to prevent all such incidents from occurring. Moreover, INCSEA’s real strength was in its ability to manage those incidents that did occur by maintaining regular and recurring forums, an acknowledgement by both sides that States conduct their business through humans, who have the potential for error.

⁵⁶ Winkler. “The Evolution and Significance of the 1972 Incidents at Sea Agreement,” 369.

⁵⁷ Ibid. 372. Also, footnote #47, in same, for expounding information regarding verification.

Even with several trying periods coming on the heels of the signing of INCSEA, the agreement was able to successfully forestall conflict in the most tense of situations.⁵⁸ One example of this was during the 1973 war in the Middle East when INCSEA faced a situation that tried the merits of the agreement. During this time the Soviet Navy increased its presence in the Mediterranean Sea by 34 surface combatants and 23 submarines, raising the combatant total to over 150 U.S. and Soviet Naval vessels.⁵⁹ Despite the rapid escalation in support of each side's allies both sides conducted themselves in accordance with INCSEA, helping to alleviate any potential U.S.-U.S.S.R conflict. As is apparent in Figure 4, the number of incidents per year during this period was decreased from the periods prior to INCSEA. This decreased incident activity, however, could be partly due to both sides' not wanting to escalate the regional conflict into a superpower war. An especially noteworthy comparison, however, is the juxtaposition of this period during the 1973 war and the period during the 1967 Arab-Israeli war. In both cases there was a considerable increase in the naval forces of both superpowers; however, it is very evident that the pre-INCSEA crisis saw a significantly increased occurrence of naval incidents compared with the 1973 war.

A comparison between both the number and type of incidents before and after signing INCSEA bring into stark relief the important role that the agreement played in mitigating the potential for conflict between the United States and USSR (*see* Figure 5). Breaking down the incidents into different categories helps to distinguish those occurrences that are more germane to conflict from those that either aren't as salient to conflict or cannot be addressed in a treaty such as INCSEA. The most important two categories are those of harassment and collisions, for many of the same reasons outlined already in this paper but, specifically, because both of these types are left open to

⁵⁸For more detail on additional events that exemplify the successes of the INCSEA: David F. Winkler. "The Evolution and Significance of the 1972 Incidents at Sea Agreement," *The Journal of Strategic Studies*, Vol. 28, No 2, April 2005: 369-371.

⁵⁹ Winkler. "The Evolution and Significance of the 1972 Incidents at Sea Agreement," 369-371.

interpretation by the tactical operators.⁶⁰ Moreover, these two types of incidents are the most likely to occur and, therefore, are deserving of extra attention due to their proclivity.

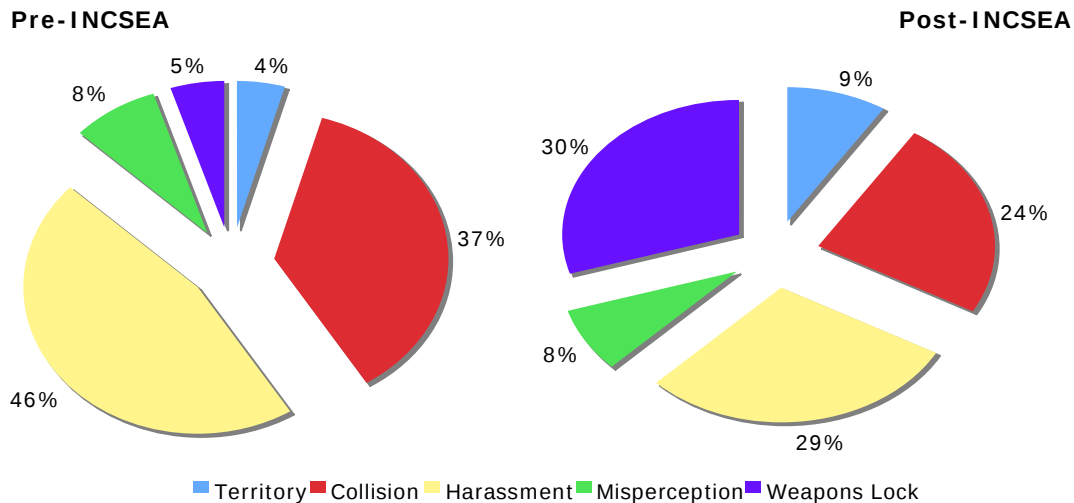


Figure 5. Pre- & Post-INCSEA Totals

Within each of the potentially provocative types of naval incidents there was a substantial decrease in occurrence from before the signing of INCSEA. In the case of incidents involving harassment there was nearly a twenty percent decrease, from nearly half of all naval incidents down to only 29 percent during the period after INCSEA was signed. Additionally, with regard to incidents involving collisions, there was almost a fifteen percent decrease in occurrence, down from almost 39 percent to fewer than 25 percent.

Despite the successful decrease in percentage occurrence in the categories that INCSEA was primarily concerned with, there was an increase in two other categories and no change in a third. First, the numbers on the category of “misunderstandings”

⁶⁰ The specific point is not that all incidents don’t have some measure of interpretation associated with them. Rather that, on a scale where subjective is at one end and objective is at the other, territorial disputes are more towards the objective end of the spectrum. Of course, this is assuming that territorial claims and “Rules of the Road” are clearly defined in the first place, but that is outside the scope of this paper. Towards the subjective end of this spectrum lays the incidents of “harassment” and “misinterpretation.” Therefore, these are the cases that will most concern this paper and, not coincidentally, these are the cases that most concerned the U.S. and the Soviet Union.

remained essentially static at eight percent of all naval incidents. Second, the percentage of incidents involving a “territory” aspect more than doubled, going from four percent to nine percent. Third, the percentage of “weapons lock” incidents dramatically increased from only five percent up to 30 percent.

The dramatic increase in “weapons lock” incidents could be potentially worrisome for both those engaged at the tactical end and those at the policy making end of U.S. foreign policy. There are several potential explanations behind this large increase: one, there is an increased level of fidelity due to the cooperation and communication established by INCSEA; two, that the advancement in weapons capability over time has left the forces more susceptible to this type of incident; and, three, that each side had found this loophole that would permit harassment without open violation of the INCSEA’s various provisions.

Of the three possible explanations, only the second possibility seems to pose a problem that would be beyond the scope of INCSEA to handle. Weapons advancement might pose a problem by changing the risks associated with certain behavior. This could manifest in the ability of one side to successfully engage the other from an increased distance or simply to detect from a greater distance. Either way, advancements in weapons could render an agreement ineffective due to a shift in the underlying assumptions that both sides have regarding their security. Alternatively, the regular, recurring meetings that were required by INCSEA would be more than capable to deal with both of the other two possibilities. Specifically, the first case is basically an instance of a problem that is having the spotlight placed on it and once the spotlight is on the problem it could be dealt with. Similarly, the third case can be handled by INCSEA’s ability to adapt to changing circumstances.

More broadly, INCSEA serves as a great example of a how institutions need to be able to change over time.⁶¹ INCSEA demonstrates the ability of agreements to begin governing over a narrowly defined issue but, once established, can be the springboard for

⁶¹ Janice G. Stein. “Image, Identity, and the Resolution of Violent Conflict,” Chapter 12, *Turbulent Peace: The Challenges of Managing International Conflict*, eds. Chester A. Crocker, et al., Washington, U.S. Institute of Peace Press, 2001: 189-208.

broad, far-reaching agreements, cooperation, and regimes.⁶² One of the specific items this new treaty addressed was the increase in ‘gun tracking,’ more basically, fire control engagement systems locking onto and tracking the other side’s platforms, of both ships and aircraft.⁶³ This type of incident increased from a practically non-existent nine occurrences prior to the INCSEA treaty to an astounding 81 instances afterwards.⁶⁴ The adaptability of INCSEA manifested itself in the “Prevention of Dangerous Military Activities Agreement” that was signed between the United States and the USSR on June 12, 1989. This agreement addressed the issues that had been continually dealt with over the subsequent annual INCSEA review meetings and codified them into a bilateral treaty. Moreover, the strength of the treaty also served to ameliorate some of the larger political tensions. This was evidenced during the late 1970s and early 1980s when increased tensions between the two countries left the INCSEA and, therefore, the navies, as the only military-to-military tie between the two countries.⁶⁵

One of the major reasons for the success of INCSEA was due to the built-in flexibility and adaptive mechanisms, specifically the yearly review process. In a similar manner, one of the hallmark features of democracy’s success is the institutionalization of regular and recurring elections. This aspect of democracy is undoubtedly one of the key elements in the continuing legacy and stamina of democracies more generally. Elections, which are known to be recurring and regular, ensure the rights of the losing party to contest the power of the winners within a reasonable timeframe and in a known manner. The importance of this cannot be overemphasized. By establishing the rules of the game and ensuring the losing party will have another chance at power in the future the government helps to establish its legitimacy and militates against domestic strife. Two scholars give an excellent summation of this point:

⁶² While the INCSEA agreement began with a very circumscribed purview, only one year passed before the treaty was broadened to include civilian merchant shipping and other non-military vessels on the high seas.

⁶³ David F. Winkler. *Cold War at Sea*, Annapolis, Naval Institute Press, 2001: 177.

⁶⁴ See Figures 5 for percentage decrease.

⁶⁵ Winkler. “The Evolution and Significance of the 1972 Incidents at Sea Agreement,” 371.

In a democracy, representatives must at least informally agree that those who win greater electoral support or influence over policy will not use their temporary superiority to bar the losers from taking office or exerting influence in the future, and that in exchange for this opportunity to keep competing for power and place, momentary losers will respect the winners' right to make binding decisions. Citizens are expected to obey the decisions ensuing from such a process of competition, provided its outcome remains contingent upon their collective preferences as expressed through fair and regular elections or open and repeated negotiations.⁶⁶

Just as democracy builds legitimacy through regular and recurring elections, so to did INCSEA strengthen its validity as an agreement by instituting the annual review process. Having the forum to air grievances and the knowledge that they would be addressed prevented any isolated incident from recurring. This annual review process created a de facto insurance policy for both sides of the superpower rivalry. This insurance policy guaranteed that both sides "minority rights" would be protected and addressed in a regular (every year) and known (through bilateral meetings) process. This frank and open process was something unique to seasoned diplomats and "State Department observers on the U.S. delegations were often taken aback at how readily each side accepted responsibility for errors and moved on."⁶⁷

C. CAN YOU "INCSEA" WITH A DRAGON?

Since the INCSEA was clearly successful in the case of the Cold War, can it be applied today between China and the United States, or for the Asia-Pacific region more generally? In order to ascertain the applicability of this agreement it is necessary to look at three equally important factors surrounding this discussion. First, to what degree can you equate the PRC of today, or in the potential near-term, with the Soviet Union of the Cold War leading up to the signing of INCSEA and afterwards? Second, what is the potential for a future Sino-American conflict sparked by or instigated in the maritime domain? Third, looking at the historical precedent of Chinese involvement with such

⁶⁶ Philippe C. Schmitter and Terry Lynn Karl. "What Democracy Is... and Is Not," in *Essential Readings in Comparative Politics*, ed. Patrick O'Neil and Ronald Rogowski, New York: W.W. Norton and Company, Inc., 2004: 225.

⁶⁷ Winkler. "The Evolution and Significance of the 1972 Incidents at Sea Agreement," 370.

agreements over the past several decades will augment the theoretical analysis of the Chinese inclination towards any potential maritime agreements. Combining these disparate aspects of the current Chinese experience within the global commons will illustrate the prospects for future engagements and interaction with the Middle Kingdom.

1. Does “Bear” = “Dragon” (or “Panda”)?

The potential for and applicability of an INCSEA style agreement for the PRC will, in part, be determined by the degree to which China today compares with the Soviet Union of the Cold War. This section will look at the elements of each country’s political economy, military capacity, and diplomatic proclivities in order to determine any common threads. The identification of these similarities will define the boundaries of applicability of previous models along with the areas where there is hope for future Chinese cooperation. Moreover, this comparison will draw out the particular points of emphasis needed in constructing any such agreement. On the surface there appears to be some broad characteristics that are shared between the Soviet Union of the Cold War and the China of today.

a. Economic Situation

Looking at each state’s economic foundation there seems to be a particularly strong resemblance between the two countries. These similarities are most evident in several particular sectors within the economy, specifically, general maritime industries (including shipbuilding) and the energy usage of each country. Despite the similarities in some aspects of the economic sector there are several areas that are quite dissimilar, with a good example being the basis of the economy itself.

The Soviet Union’s seaborne trade nearly tripled from 1950 to 1970, with an even larger increase in the percentage of that trade being conducted by Soviet vessels. Specifically, the rapid growth in Soviet maritime trade during this timeframe resulted in total trade growing to 121.3 million, up from 44.3 million tons.⁶⁸ Moreover, the Soviet

⁶⁸ Winkler. “The Evolution and Significance of the 1972 Incidents at Sea Agreement,” 373, footnote #5.

Union was using 70 percent of its own shipping by 1970.⁶⁹ This growth in shipping and shipbuilding was undoubtedly coupled with an increase in the overall presence of the Soviet Union on the high seas.

Similarly, China has experienced over 5 percent growth in maritime transport every year since 2000 and finally broke into double-digit growth in 2005 with a 10.3 percent growth rate.⁷⁰ China's shipbuilding industry (SBI) has continued to build on its successes and garner an ever-increasing portion of the world market share within international shipbuilding, growing from 11th in the world in 1991 to 3rd in the world with 23.5 percent of the world market share at the end of 2006.⁷¹ Most notably, these gains have come in spite of downturns in demand in the mid-1990s and after the Asian Financial Crisis (AFC). Since the turn of the century, China has steadily increased its capacity (Figures 6) concurrent with increased use of sophisticated shipbuilding techniques.

⁶⁹ Winkler. "The Evolution and Significance of the 1972 Incidents at Sea Agreement," 373, footnote #5.

⁷⁰ UNCTAD Secretariat. *Review of Maritime Transport*, 2006, New York and Geneva, 2006: 8-10.

⁷¹ Both: Thomas G. Moore. *China in the World Market: Chinese Industry and International Sources of Reform in the Post-Mao Era*, Cambridge, Cambridge University Press, 2002: 186. And "The Shipbuilding Market: 2007 Annual Review," Barry Rogliano Salles, online: <http://www.brs-paris.com/annual/annual-2007/newbuilding/newbuilding-a/newbuilding-a.php>, accessed: September 18, 2007.

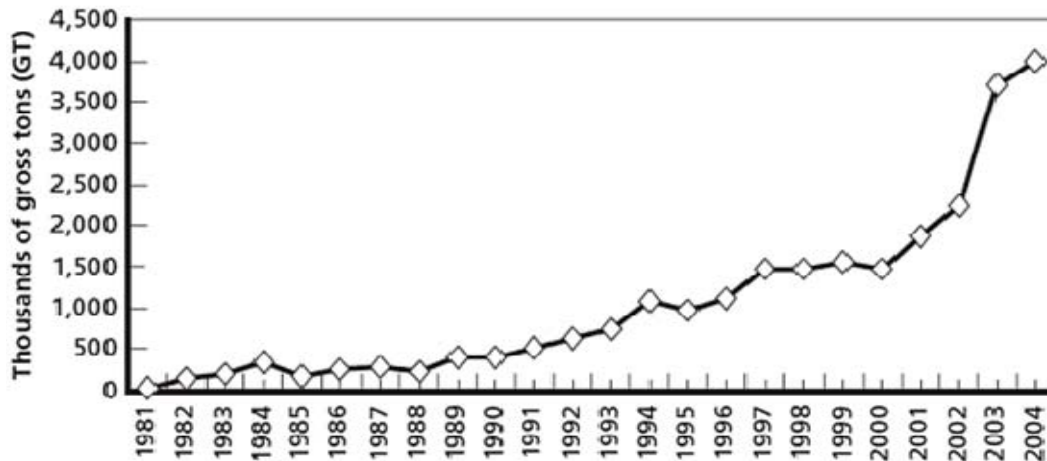


Figure 6. Tonnage Delivered by Chinese Shipyards, 1981-2004 (From: Medeiros, A *New Direction for China's Defense Industry*)⁷²

Looking further into the economics of both countries, there is a pretty significant correlation between the two countries energy consumption (Figure 7).⁷³ As is evident in the graph, both countries exhibit a very similar trajectory of growth in energy consumption throughout the 30-year comparison period. It is important to note that even though there is a difference between the actual amounts used by both countries, this is to be expected with such a large difference in population size. Specifically, the Soviet Union held an average of just over two-hundred million people throughout the 30-year period, while the PRC held over 1.1 billion people through the same period. This difference in population explains the delta between the two values in real terms.

⁷² This chart's information was drawn from Lloyd's Register, *World Shipbuilding Statistics*, as quoted in: Evan S. Medeiros, et al., *A New Direction for China's Defense Industry*, Santa Monica, Calif.: RAND Corporation, MG-334-AF, 2005: 125. Additionally, the figure for 2004 shipyard output is an estimate based on past growth trends. However, output was over 2 million gross tons for the year. (RAND MG334-3.1)

⁷³ Data in figure from the C.O.W. report. Specifically, the Composite Index of National Capability (CINC). A graph of this data is shown in figure 13. For additional information, see: J. David Singer, Stuart Bremer, and John Stuckey. (1972). "Capability Distribution, Uncertainty, and Major Power War, 1820-1965." in Bruce Russett (ed) *Peace, War, and Numbers*, Beverly Hills: Sage, 19-48. See also: Singer, J. David. (1987). "Reconstructing the Correlates of War Dataset on Material Capabilities of States, 1816-1985" *International Interactions*, 14: 115-32.

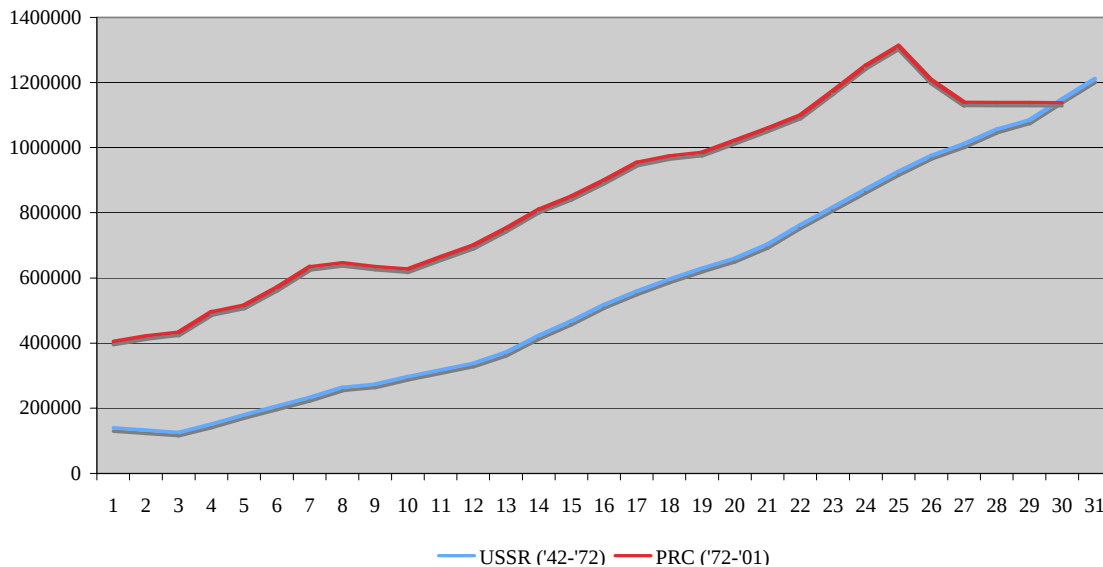


Figure 7. Energy Consumption (Thousands of coal-ton equivalents)⁷⁴

The steady increase in energy consumption by both countries speaks to the growth sought after by both state's governments. The fact that the PRC today is looking to channel most of its resources into economic development as opposed to the Soviet's emphasis on military growth is perhaps a defining difference. Yet, even as both countries diverge in their intentions, they both still require increasing amounts of energy to accomplish their goals. Moreover, the confluence of the PRC's emphasis on economic development along with the increasing demand for energy to support that effort points toward a Chinese maritime expansion.

While the discussion so far has outlined some very important and salient aspects of each country's economy that are similar, the fact remains that the basis for each country is now very different. This difference is the command or planned economy of the Soviet Union as compared with the current market based economy in China. Despite each country having similar starting points, the paths that each took in the time

⁷⁴ Both lines represent a 30-year period for each country. However, for the USSR the years represented are 1942 through 1972, the 30-year period prior to the signing of the INCSEA treaty. For the PRC, the years represented are 1972 through 2001. All data from: J. David Singer, Stuart Bremer, and John Stuckey. (1972). "Capability Distribution, Uncertainty, and Major Power War, 1820-1965." in Bruce Russett (ed) *Peace, War, and Numbers*, Beverly Hills: Sage, 19-48. See also: Singer, J. David. (1987). "Reconstructing the Correlates of War Dataset on Material Capabilities of States, 1816-1985" *International Interactions*, 14: 115-32.

period in question portray a development that is quite distinct from each other. While the Soviet Union continued with its planned economy until its ultimate demise, the PRC has moved towards a free market economy while maintaining the ideological inclinations within their domestic politics, specifically the within the CCP.

During the time-period in question, both countries experienced a marked increase in their overall maritime presence, both in production and activity, had significant growth in their overall energy consumption, and yet both countries pursued opposite forms of governmental market control and intervention.

b. Military Capability

In recent years there has been much fanfare over the emergence of the so-called “China threat.” The discussion on China’s growth, however, lacks substantial evidence to point to exactly what type of threat that will entail? Will China grow to become a “peer” or “near-peer” competitor vis-à-vis the United States similar to the Soviet Union of the Cold War? Or will its growth only produce a regional challenger that does not attempt to project its power worldwide but is content to exert only regional influence? This paper will examine a comparison between the two country’s military power beginning with an overall assessment, moving on to strategic considerations, and, finally, will look at the actual hardware and deck-plate level detail.

A broad perspective on each country’s military capability can be discerned from looking at each country’s composite index of national capability (CINC) overtime.⁷⁵ The data show an interesting correlation between the USSR and the PRC, specifically looking at a ten, twenty, and thirty year period. This period is from 1952 through 1972, the signing of the INCSEA agreement, for the USSR and 1977 through 2007 marks the range of years for the PRC. The first trend that is noticeable is the relative stability of the PRC’s graphs across all year ranges. The PRC has been enjoying

⁷⁵ Composite Index of National Capability (CINC) is a term used in the Correlates of War project from the University of Michigan. Specifically, “this measure is generally computed by summing all observations on each of the 6 capability components for a given year, converting each state’s absolute component to a share of the international system, and then averaging across the 6 components.” *Data Available*: Singer, et al. “Capability Distribution, Uncertainty, and Major Power War, 1820-1965.” *Also, online*: <http://www.correlatesofwar.org/>, accessed: February 10, 2008.

a steady, but limited growth in their CINC, with the only exception occurring during the Tiananmen crisis. This is in contrast to the relatively erratic fluctuations of the Soviet Union's military capability in their ten and twenty-year perspectives. Despite the fact that there are these differences, the thirty-year graph shows, quit clearly, just how similar in slope the two countries' trend lines are over the long term (Figure 7).⁷⁶ Moreover, if China is able to maintain its growth, it should be able to meet and perhaps even exceed the national capability of the Soviet Union during the Cold War.

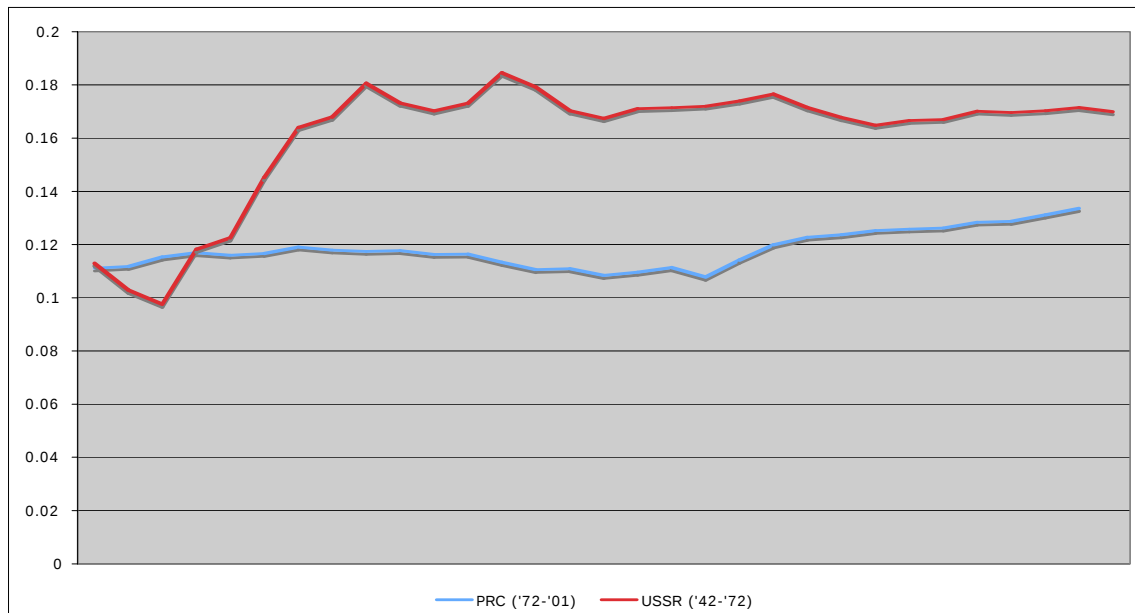


Figure 8. Composite Index of National Capability (per country)⁷⁷

It is clear that the Chinese national capability is growing vis-à-vis the Soviet Union of the Cold War, but what about strategic intentions? Is there any comparison between the aims of the two countries? One point of similarity between the two is undoubtedly their search for technological breakthroughs to enable them to leapfrog the United States in military power. For the Soviets, this technology came in the form of nuclear technology for both propulsion and destruction as seen in this passage:

⁷⁶ The only portion of the Soviet 30-year period that needs to be explained is at the beginning of the timeframe. These years of fluctuation can be explained as the result of World War II and its aftermath.

⁷⁷ Data Available: Singer, et al. "Capability Distribution, Uncertainty, and Major Power War, 1820-1965." Also, online: <http://www.correlatesofwar.org/>, accessed: February 10, 2008.

The breaks of the naval technological race have been a key factor in substantially improving the relative Soviet posture vis-à-vis the West- and without a proportionate national investment. For the first time the Soviet Navy can pose a direct threat to the continental United States; for the first time it can present a serious threat to the American surface fleet; and because it is able to do this, for the first time the USSR can become a formidable competitor...⁷⁸

Part of the reason for the Soviet's move towards higher technology equipment had to do with their general shift in attitude away from quantity towards quality. In order to carry out this shift, one of the main instruments of this qualitative increase was the submarine.⁷⁹

The Soviet shift from quantity to quality is very similar to the Chinese shift of emphasis that is underway today. Specifically, this change is embodied by a move away from Mao's concept of "people's war" towards the new emphasis on "winning informationaized wars by the mid-21st century."⁸⁰ Also, their emphasis on the "assassin's mace" or other revolutions in military affairs (RMAs) is very similar to the Soviet focus in the late 50s and early 60s of quality over quantity.

Looking at the equipment that each country sought it becomes clear that both countries were seeking to leverage some form of asymmetric advantage against the global hegemon, i.e., the United States. For the Soviets, their advantage was in part due to the technology gains made by their emphasis in quality, but also through their clever use of flexible deployment to effectively project power any where in the world. This meant that there was a general acquisition of primarily conventional naval vessels with an additional emphasis on the submarine force. Moreover, the logistical network that was needed to support these forward deployed vessels was meticulously maintained and cultivated.

⁷⁸ Dismukes and McConnell. *Soviet Naval Diplomacy*, 18.

⁷⁹ The Soviets sought to radically increase their submarine force, during the 1942-57 time frame, to "roughly 470 units" [and] with a "goal with which they are frequently credited- an ultimate total of 1,200 units."

⁸⁰ People's Republic of China. *2006 Defense White Paper*, online: <http://www.china.org.cn/e-white>, accessed: January 15, 2008.

China today, in a similar fashion, is seeking to modernize its forces with increased integration and development of new technologies. Unlike the Soviets, however, there has not been a push to generate a truly “blue water” navy. Rather the emphasis is on increasing their regional presence and expanding their littoral reach, i.e., a more “green water” focus. This focus is evidenced by their focus on developing the PLAN with no major forward support structure similar to that of the Soviet Union during the Cold War. Even if the reports concerning forward basing in Pakistan and Burma are true, these two support facilities do not even begin to compare to the scope or breadth of the Soviet support system.⁸¹

c. Political/ Diplomatic Arrangements

The impact of the Soviet Union’s experience of losing approximately 22 million people in WWII cannot be underestimated in terms of their foreign policy choices during the beginning part of the Cold War. Specifically, this experience led them to focus on creating buffer zones, both geographically to the homeland and also for their ideological interests abroad (e.g., their third world partners and suppliers). Despite beginning the post-WWII experience of communism undergirding almost all Soviet foreign interactions, in the 1960s this myopic idealism was replaced with a more pragmatic foreign policy based on real gains for the country. Moreover, the Soviet’s competition for influence in third world countries caused them to relinquish their steadfast devotion to ideology and instead focus on a “quid pro quo” approach.⁸²

China is making many of the same changes today that were undertaken by the Soviet Union during those early years of the Cold War. There are, however, some nuanced differences. While the Soviets moved away from idealism in order to secure and expand their sphere of influence the Chinese have moved away from ideology in order to join the larger world order, not to separate themselves from it. Specifically, the ideals of

⁸¹ These support facilities included: Egypt, Somalia, Syria, Guinea, Iraq, Yugoslavia, Singapore, and Algeria for their naval repairs. Moreover, the Soviets even enjoyed commercial support for their naval merchant marine in such western ports as Spain, Italy, and Gibraltar. See *Table 2.8* in: Diskmukes, p. 70.

⁸² Diskmukes and McConnell. *Soviet Naval Diplomacy*, 5.

communism have been subverted for economic development and the maintenance of power by the CCP, however that power is held.

The differences between the two do not mitigate the fact that the Chinese are actively courting several African nations in a nod to Soviet block tactics. It is irrelevant that this courtship is meant to bear economic fruit instead of ideological support. The underlying condition is that both countries are politically engaging the periphery of their interests in an attempt to bolster their position, be it economic or ideological.

d. Overall Comparison

For the Soviet Union, the combination of their increased maritime commercial presence and the perception that competition over their sphere of influence required advanced technologies⁸³ led to the development of a “blue-water” navy capable of challenging the United States on the High Seas.⁸⁴ China, in a similar fashion, is continuing to modernize its navy to increase their ability to maintain the supplies and resources needed to continue to fuel the growing economy.⁸⁵ Yet, even within the Chinese expansion is the desire to keep a regional, limited focus for the PLAN.

The similarities between the Soviet Union and China are significant, however there are some differences too. First, the PRC has yet to fully develop into a complete superpower with peer or near-peer capabilities vis-à-vis the U.S. Navy.⁸⁶ While this in and of itself is not a huge distinction, it does highlight the difference in current power between the PLAN and USN. This could make a difference in cooperative relationships when one side has vastly greater power than the other. Specifically, the

⁸³ “The imminent deployment of Polaris missiles in American nuclear-powered submarines was a threat the Soviets were unprepared to handle... Thus in 1960 and 1961, major reassessments of naval strategy apparently took place within the Kremlin leadership.” From *page 362*, see also *Footnote #4* in: Winkler. “The Evolution and Significance of the 1972 Incidents at Sea Agreement,” 362.

⁸⁴ Refer to footnote #68 for detailed information on Soviet commercial shipping.

⁸⁵ Cole. *The Great Wall at Sea*: 183-189.

⁸⁶ While some view the rise of China’s economic capabilities as a portent for similar future military competition, this argument does not seem particularly convincing. Much of the infrastructure needed to build such a force, and that the Soviet Union had in place, is not geared for military production of the type needed to facilitate this “blue-water navy.” For more details and assessment see: Cole. *Great Wall at Sea*.

chance is that the stronger party could rely on their coercive power rather than submit to a cooperative agreement. Conversely, there is a chance for free-riding on the part of the lesser power. Additionally, while it seems that we are moving towards this peer (or near-peer) relationship, it could still falter with an implosion of the PRC economically or politically. Whether or not the PRC develops as predicted or not, the previous assessment of the PLAN's capabilities vis-à-vis those of the Soviet Navy's at the signing of the INCSEA will help in assessing the applicability of an agreement today between the United States and the PRC.

The basic ideas behind the INCSEA will continue to be applicable to the U.S.-Chinese relationship no matter what development path the PRC follows. One reason is that China's population and situation in the world will continue to place it at the center of international relations and commerce within the Asia-Pacific. Moreover, facilitating cooperation to prevent conflict, "naval incidents," or increased tensions is still very useful even if China experienced a dramatic failure in its current development. Such a failure could place increased pressure on the leadership within the CCP to look for external diversions to its internal problems. However, if an agreement along the lines of INCSEA was already established, potential flashpoints for conflict could be dealt with when cooler heads prevailed.

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III. CHINESE MARITIME AGREEMENTS

With a firm grasp of the theory surrounding maritime institutions along with a successful historical example Chapter II has provided the needed sounding board from which to gauge maritime agreements with “Chinese characteristics.” This chapter will take this framework and build upon it by looking at several aspects of Chinese involvement with maritime agreements. First, some of the paramount domestic political concerns that will most likely affect the Chinese leadership’s decisions regarding engagement of a maritime agreement will be examined.

The following portion will continue the examination by looking at Chinese leader’s decision to sign treaties that are currently on record with the UN. This will provide a baseline for the affects of their domestic politics on their international involvement and, more generally, of their proclivity for maritime agreements. Next, specific Chinese maritime agreements along with specific issues relating to each will be examined. Additionally, these specific cases will be juxtaposed with a more general study of all the treaties on file with the UN and the IMO. These treaties will be coded using the same methodology that will be applied to each of the naval incidents, coded in Chapter IV, facilitating easy comparison. Finally, a comparison of current Chinese maritime agreements to the previously successful INCSEA should reveal strengths and weaknesses within the corpus of Chinese maritime agreements.

Overall, this chapter will help provide the second leg of the triangle of data that will be analyzed in Chapters V and VI. The substance added is the knowledge of the particular Chinese experience with regard to maritime treaties. A specific focus will be on what factors drive the Chinese decisions with regard to maritime agreements and, more generally, international cooperation.

A. THE DRAGON'S LAIR: HISTORICAL PRECEDENT FOR COOPERATION

1. Domestic Impact on Chinese International Involvement

The Chinese leaders realize the need to continue the development of their country in every aspect, not just economically. This desire for total reform is gestated out of the need to keep political and social development apace with the economic growth of the PRC. With emphasis placed on the economic policies over the past few years the overall goals are succinctly stated in the 2006 Communiqué of the 16th Plenum.⁸⁷ Moreover, President Hu Jintao has continued to make domestic politics central to his discussions on foreign policy and international relations. In the 2004 PRC Defense White Paper there are five objectives outlined which drive Chinese international dealings and policies:

...[to] defend national sovereignty...safeguard the interests of national development... modernize China's national defense [via] informationalization... safeguard the political, economic and cultural rights & interests of the Chinese people... [and] to pursue an independent foreign policy of peace.”⁸⁸

Several overt and implied messages are contained within this White Paper that further outline Chinese interests. First, Taiwan is, and will continue to be, a major issue for the Chinese leadership. The Chinese leadership makes it very clear that it will quickly change focus, from the economic growth of China to the reunification of Taiwan, should anything upset the current status quo or especially if any move toward a separation occurs. President Hu stated recently, “the [United States and China] should adhere to the principles, honor the commitments and properly handle the question of Taiwan in accordance with the three China-U.S. Joint Communiqués.”⁸⁹ Since these documents that Hu refers to were established in 1972, it is easy to see that China hopes to

⁸⁷ *Communiqué of the Sixth Plenum of the 16th CPC Central Committee*, 11 October 2006, online: <http://www.chinaview.cn>, accessed: September 12, 2007.

⁸⁸ People's Republic of China. *2004 Defense White Paper*, online: <http://www.china.org.cn/e-white>, accessed: January 15, 2008.

⁸⁹ Hu Jintao. *President Hu makes proposals on advancing Sino-U.S. relations*, April 2006, <http://www.china-embassy.org/eng/zmgx/t248819.htm>, accessed: December 4, 2006.

preserve the status quo. That is not to say that it does not want Taiwan reunited under its leadership, but the Chinese leadership puts a higher value on maintaining its economic growth- that a war over Taiwan would undoubtedly affect- ahead of reuniting Taiwan. The Chinese will, however, likely risk economic prosperity, and more, should Taiwan make the first move.

More generally, the primary consideration is maintaining regional, and increasingly global, stability in order to allow the continued economic development of the PRC. Specifically, the leadership of the CCP knows its legitimacy is tied to the economic development and continued prosperity of its country. While this sentiment also covers the Taiwan issue as previously discussed, it also covers much wider regional interests. China is beginning to realize that increased involvement, by the PLAN, in regional military operations fosters amicable relationships that can extend into the economic realm as well. Moreover, the Chinese are quite cognizant of the United States' influence in the Pacific and wish to begin to establish influence in the region as well. Specifically, Beijing would like to be able to exert influence over their vital sea-lanes, while at the same time creating a larger buffer for self-defense vis-à-vis external threats (e.g., any Japanese or U.S. actions in the region). According to some Chinese scholars, the reason for the Chinese desire to secure these sea-lanes and buffer seas is because the Chinese "view their energy supply as precarious, especially in relation to the United States."⁹⁰

2. Data on Chinese Historical Involvement

For many of the same reasons that were previously discussed, leaders within the CCP desire to maintain the nation's independence concurrent with engagement of the global commons. "China does not pursue hegemony, invasion, or expansion; does not form military alliance with any other country; and does not garrison troops or build military bases abroad."⁹¹ That being said, stability both within China and in the broader

⁹⁰ Dr. Wang Wenfeng. Professor, China Institutes of Contemporary International Relations (CICIR), in discussion with the author, February 2008.

⁹¹ Chi Haotian. *Speech on Defense Policy given to Japan's National Institute for Defense Studies*, February 4, 1998.

regional system is essential for the regime to maintain power. It is a pretty fair assumption that China's economic development would be negatively affected from a destabilized Pacific region. The extent to which this can be debated is only a matter of degree, but no doubt there would be a measure of effect on the PRC following an exogenous economic shock. It follows that future growth and sustainment of the PRC can be ensured through engagement of the global commons.⁹²

An examination of Chinese engagement through historical maritime agreements can help develop some broader trends in their interaction with those treaties and institutions, more generally. In order to facilitate this examination this thesis will look at the basket of treaties that are deposited with the United Nations. Specifically, the resources of the United Nations Treaty Series (UNTS) will be utilized to provide a starting point for examining China's involvement with maritime agreements. All parties of the UN are required to deposit treaties that they are States Parties of with the Secretary-General.⁹³ Specifically, the UNTS is a collection of all bilateral and multilateral treaties signed by all member states to the UN.⁹⁴ While the UNTS is not an exhaustive repository of world treaties, for the purposes of assessing Chinese involvement over time, whatever bias is present should be consistent across the sample.

To properly code the data from UNTS, the study was performed via multiple searches of the treaty database using different search criteria for each iteration of the search. The primary search criteria used was the date range that a particular leader was in power. This date range provided a starting point for accessing the treaty database. With this date range established, multiple searches within that range were performed using several different filters; unfiltered, bilateral, multilateral, or maritime. The first search

⁹² This "formalization" can take many different forms. However, what is important for the purposes here is that any move towards engagement is a formalization of the new relationship between China and whomever they are dealing with. For a further detail on the myriad steps of formalization see also footnote #19.

⁹³ "States Parties" is a term referring to a member of a treaty that has agreed to be bound by the terms of that specific treaty. Reference footnote #19.

was an unfiltered one that yielded the total corpus of treaties that have been deposited with the UN and that were signed under that particular leader. The second search used a filter that looked at the nature of the treaty itself. Specifically, was this treaty a bilateral treaty or a multilateral one? The third search filter that was used looked to see if the treaty pertained to the maritime. This data was then recorded and compiled to facilitate comparison and, as before, illuminate the broad trends in recent history. Additionally, while the categories of bilateral or multilateral are mutually exclusive, the determination over whether or not the treaty was maritime or not was made independently of the first distinction.

Once the data was compiled and filtered (*see* Figure 10), then it was subjected to further study whereby each type incident (e.g., maritime, multilateral, or bilateral) was subjected to a quantitative filter. This filter was applied in four different ways: percentage of maritime treaties, maritime treaties signed per year, multilateral treaties signed per year, and total treaties signed per year.⁹⁵ The percentage of maritime treaties is the only variation of the four filters applied for this analysis. Specifically, it looks at the number of maritime treaties as a percentage of the total number of treaties signed. Next, the remaining three filters all take the total number of treaties in their respective category and divide that number by the term length of each respective leader. The result shows just how many treaties of that specific type each leader was likely to sign.

In looking at the data there are several aspects that deserve attention. What is important is to examine the long-term trend-lines and perspectives surrounding Chinese leaders' engagement with the global community via international treaties and, more specifically, maritime agreements. The analysis will involve several comparisons: one,

⁹⁴ *United Nations Treaty Collection*, United Nations, 2007, online: <http://untreaty.un.org/English/faq.asp>, accessed: December 7, 2007. United Nations Treaty Series: (14 December 1946 - February 2005) "This publication contains the texts of over 158,000 records of bilateral and multilateral treaties and subsequent treaty actions in their authentic language (s), along with a translation into English and French, as appropriate."

⁹⁵ The inferred category is that of bilateral treaties signed per year. This filter was left out because the total treaties signed per year less the multilateral treaties signed per year is equal to the bilateral treaties signed per year. Or, more concisely: multilateral treaties+ bilateral treaties= total number of treaties

involvement with maritime treaties; two, involvement with multilateral treaties; and, three, total treaties compared with the aggregate total for each leader.

<i>President</i>	<i>Rule *</i>	<i>Total **</i>	<i>Bilateral</i>	<i>Multilateral</i>	<i>Maritime</i>	<i>Mar. % (1)</i>	<i>Mar. (2)</i>	<i>Total (2)</i>	<i>Multilateral (2)</i>
Mao Zedong	5	63	54	9	13	20.6	2.6	12.6	1.8
Deng Xiaoping	15	400	368	32	13	3.2	0.9	26.7	2.1
Jiang Zemin	10	206	203	3	3	1.5	0.3	20.6	0.3
Hu Jintao***	4.75	10	10	0	0	0.0	0.0	2.1	0.0

Figure 9. PRC Leadership's Treaty Engagement⁹⁶

a. Maritime Treaties

The data generated by this study does not seem to reflect the emerging role of China in the maritime commons as purported by their emerging national power.⁹⁷ What are striking about the numbers in Figure 10 are not only the relatively low percentage of maritime treaties per leader, but also the increasing paucity of the maritime treaties over time. Other than during Mao's leadership, the average number of maritime treaties signed per year has been at one or under (Figure 10). This data only seems to reaffirm the perception of several Chinese scholars who view China as "very cautious to engage in such relationships."⁹⁸ Specifically, China lacks the confidence to fully commit because these types of mechanisms are viewed as being "dominated by U.S. and Western interests."⁹⁹

⁹⁶ *Length of Rule, in Years. ** Total Number of Treaties Signed by Leader during Tenure. ***Hu Jintao's numbers are not fully representative of his engagement due to update efficiency with the UNTS, where this data originates. ^ Bilateral Treaties. ^^ Multilateral Treaties. (1) % of Total Treaties signed. (2) Average Per Annum. Source: United Nations. United Nations Treaty Series, New York, 2007, online: <http://untreaty.un.org>, accessed: December 7, 2007. Multiple searches of the database were performed and the data correlated and combined to form this table. See reference list for websites of each of the treaties.

⁹⁷ Refer to CINC comparison for the PRC in Chapter II.

⁹⁸ Dr. Wang Wenfeng. Professor, China Institutes of Contemporary International Relations (CICIR), in discussion with the author, February 2008..

⁹⁹ Ibid.

Perhaps the best case to examine regarding Chinese involvement with a maritime treaty is their involvement with the United Nations Convention on the Law of the Sea of 10 December 1982 (UNCLOS). This agreement “lay[s] down a comprehensive regime of law and order in the world’s oceans and seas establishing rules governing all uses of the oceans and their resources.... enshrining the notion that all problems of ocean space are closely interrelated and need to be addressed as a whole.”¹⁰⁰

Beginning in late 1973 the UN began construction of what is now known as the UNCLOS by calling for two sessions of the conference on the Law of the Sea. The participation level was outstanding with around 5000 representatives from almost every country in the world.¹⁰¹ There is nearly that same level of involvement from today’s 193 countries with over 155 having signed the treaty or made a declaration to that effect.¹⁰²

Despite the exception of some countries, there has been considerable progress made with UNCLOS. Finally ratified in 1982 and in effect since November 1994, the UNCLOS has been able to achieve relative success in several areas:

- Increasingly, UNCLOS is becoming the norm for communication and open dialogue on all things maritime, especially procedure and policy. The importance of this cannot be underemphasized. Establishing a normalized forum for maritime issues of governance is vital to any future maritime successes.
- UNCLOS has established rules and regulations for change and adaptation. The success of these institutionalized change mechanisms is evidenced in the two supplemental agreements regarding ‘Article XI’ and ‘conservation and management’ of certain fish stocks.

¹⁰⁰ “Overview,” U.N. Division for Ocean Affairs and the Law of the Sea, online: http://www.un.org/Depts/los/convention_agreements/convention_overview_convention.htm, accessed: August 26, 2007.

¹⁰¹ Hungdah Chiu. “China and the Law of the Sea Conference,” *Occasional Papers/Reprints Series in Contemporary Asian Studies*, Baltimore, No 4, 1981: 11.

¹⁰² While this seems to be a considerably high participation level, on the list of nine countries that have made no acquiescence includes some noteworthy countries: the United States, Turkey, Venezuela, Syrian Arab Republic, Israel, Peru, Ecuador, Eritrea, and Timor-Leste. For a detailed listing of States’ accession to the treaty: “Status of the United Nations Convention on the Law of the Sea, of the Agreement relating to the implementation of Part XI of the Convention and of the Agreement for the implementation of the provisions of the Convention relating to the conservation and management of straddling fish stocks and highly migratory fish stocks.” United Nations Division for Ocean Affairs and the Law of the Sea, Office of the Legal Affairs, 7 August 2007, online: http://www.un.org/Depts/los/convention_agreements/convention_overview_convention.htm, , accessed: September 19, 2007.

In regards to the Law of the Sea, the PRC first engaged with the international maritime community in November of 1970.¹⁰³ China's beginning position on the Law of the Sea seemed to be slightly hedging, while at the same time containing some rhetorical aspect for the non-aligned movement.¹⁰⁴ Nonetheless, China does have a decades long history of engagement with UNCLOS and its various mechanisms. In looking at this history, however, what lessons can be drawn from these examples that would be applicable to a future Chinese maritime security treaty (i.e., an agreement similar to INCSEA)? That question can be best answered by looking for evidence of the successful qualities of the INCSEA in the Chinese dealings with UNCLOS.

China's current involvement with UNCLOS seems to be contiguous with its past inclinations toward cryptic posturing and non-committal positions. Specifically, China engages in the treaty to the minimum level required to avoid any outright violations and it may follow the letter of the law but very rarely follow the spirit of the law when it is against their interests.¹⁰⁵ Moreover, China's ambiguity when it comes to the spirit of the laws stands in conflict with one of the significant reasons for the success of INCSEA, specifically, the "professionalism in [the] navy's conduct and *intentions*."¹⁰⁶

Additionally, there seems to be evidence of other general trends in Chinese behavior that stand counter to the successful actions taken by the United States and the Soviets while engaging in the INCSEA. One of these traits is the ability to avoid politicizing the treaty and instead rely on rational interactions between the members. While the INCSEA was able to function as well as it did partly because it could fly under the "political radar," it seems that China increasingly uses historical and nationalistic claims to bolster its UNCLOS claims on various territorial disputes. The point is that

¹⁰³Hungdah Chiu. "China and the Law of the Sea Conference," *Occasional Papers/Reprints Series in Contemporary Asian Studies*, Baltimore, No 4, 1981: 6.

¹⁰⁴Chiu. "China and the Law of the Sea Conference," 17-25. Specifically, refer to the numerous public statements made by the government and the government controlled media.

¹⁰⁵U.S. government source well versed in Chinese affairs, in discussion with the author, February 2008.

¹⁰⁶See, Chapter II, this paper.

placing this political baggage on to various disputes only raises the costs for any concession given by the Chinese and, therefore, makes it less likely that a compromised solution would be acceptable to the Chinese leadership.

In contrast, China views itself as a pariah state that was let in from the cold only recently and, because of this, is very eager to prove their ability within the world system in order to gain acceptance.¹⁰⁷ Despite some less than productive traits, the Chinese are not immune to the pressures from the larger world system. According to several Chinese scholars, the Chinese view the recent unilateral actions taken by the United States as being part of a move to abandon the UN framework and, more specifically, maritime agreements.¹⁰⁸ If the Beijing is working under these two assumptions then it becomes very clear why it seeks to maximize their position through abiding by the letter of the law, even if this conflicts with the spirit of the law.

Overall, Chinese involvement with UNCLOS seems to be for reasons more on the political end of the spectrum than the tactical, ground level that was characteristic of the INCSEA. This contrast means that many of the advantages of an INCSEA type agreement would be lost if China used the same manner of engagement that it used with UNCLOS. Moreover, there is a current anathema towards any type of INCSEA agreement in China due to fears of such an agreement admitting to, even if only tacitly, an adversarial relationship with the United States.¹⁰⁹ This fear would be unfounded, or at least largely mitigated, if the Chinese planned to engage apolitically in any future agreements of the like.

b. Multilateral Treaties

The PRC leaders' participation in multilateral international treaties and agreements seems to correlate with the numbers regarding maritime international treaties.

¹⁰⁷ Dr. Wang Wenfeng. Professor, China Institutes of Contemporary International Relations (CICIR), in discussion with the author, February 2008.

¹⁰⁸ Dr. Niu Xinchun. Professor, China Institutes of Contemporary International Relations (CICIR), in discussion with the author, February 2008.

¹⁰⁹ U.S. government source well versed in Chinese affairs, in discussion with the author, February 2008.

During the reign Deng there was a deviation from this, in real terms there was over triple the number of multilateral agreements signed (Figure 10), but with very little percentage change. Comparing the leaders' preference for multilateral treaties in terms of percentages seems to skew the data. However, when looked at as the average per annum, it is clear that there has been little deviation amongst the various leaders in their preference for, or perhaps more correctly their anathema of, multilateral treaties as compared to bilateral treaties.

c. Overall Treaty Picture

Looking at the data coded from the UNTS, there is a clear preference of all the leaders for bilateral agreements. Additionally, there has been an essentially increasing trend in participation with treaties in general since the start of this data (Figure 10). Looking at the leaders with the highest percentage of maritime treaty participation the feeling is that maritime matters have declined in importance. Even with the data limitations, President Hu seems to be falling behind his peers when comparing annual treaties signed and specifically when looking at involvement with maritime treaties. This does not fit with several of the assertions made earlier in this very paper, however. So what is the discrepancy?

The spike in treaties in the beginning of the PRC could be a reflection of China's newfound status as a member of the United Nations. This recently earned status would have also carried with it a raft of treaties that were already on the books prior to Chinese acceptance of the UN. Conversely, in real terms, the numbers have remained roughly equivalent across the board. Additionally, rather than the high percentage of Mao or high numbers of Deng reflecting any particular maritime proclivity, perhaps they are representative not of maritime treaties decreased importance, but rather the increasing importance of globalization for all aspects of society.

Overall, there are several characteristics that can be concluded from the treaties that China has signed on to. First, over time, China has become increasingly more selective, resulting in a fewer overall treaties signed as well as those pertaining to the maritime realm. Second, the decrease in the number of treaties bolsters the

assessment that China is a reluctant engager. Third, the fewer numbers of treaties signed also points toward a China that is inclined to favor the status quo and tolerates change only so far as it has a hand in shaping the nature of that change.

B. THE DRAGON'S NEIGHBORHOOD: ATTEMPTS AT MARITIME COOPERATION

Relevant international institutions or maritime regimes are going to be comprised of those institutions and agreements that only pertain to the maritime realm. This will especially pertain to those that have military (and therefore Naval) aspects explicitly addressed. However, it also means that those institutions and agreements that deal with maritime issues that have been historically filled with tension or prone to lead to increased military postures will also be included.

Many of the maritime security regimes that have been attempted are in relation to an enclosed or semi-enclosed sea. Some of these maritime regimes include attempts in the Baltic Sea, the Mediterranean Sea, the North Sea, and the Arctic Ocean.¹¹⁰ The gains won for each regime are individually important for their respective regions, however what is salient for the application to the broader Asia-Pacific region is the fact that each of these regimes was the result of an incremental process.

Within the Asia-Pacific region, the most notable example of maritime cooperation and regime building has occurred and is taking place within the South China Sea. Some of these efforts include the 1976 ASEAN Treaty of Amity and Co-operation (1976), the ASEAN declared goal of a Zone of Peace, Freedom and Neutrality (1971), the 1992 ASEAN Declaration on the South China Sea, and “the repeated Indonesian South China Sea Workshop Statements” outlining the member states’ desire to cooperate in dispute resolution.¹¹¹ The groundwork laid by ASEAN has provided for a forum where maritime regime potential and particulars in the South China Sea can be discussed. While there has been no great strides made in this area, at an ASEAN summit in 2002, the countries agreed to a Declaration on the Conduct of Parties in the South China Sea.

¹¹⁰ Valencia. “Regional Maritime Regime Building,” 233 (223-247).

¹¹¹ Ibid, 239 (223-247).

Despite the fact that this agreement was non-binding to any of the involved parties, the declarations do give hope for continued, future cooperation by stating:

The Parties reaffirm their commitment to the purposes and principles of the Charter of the United Nations, the 1982 UN Convention on the Law of the Sea, the Treaty of Amity and Cooperation in Southeast Asia, the Five Principles of Peaceful Coexistence, and other universally recognized principles of international law which shall serve as the basic norms governing state-to-state relations.¹¹²

It is clear that the rhetoric is there, but is it backed up by actions? According to one scholar, effectual, real cooperation, due mainly to domestic and international political legacies, is still not a reality.¹¹³ Additionally, continued strained relationships over disputed territories and a raft of other maritime issues continue to militate against more cooperative engagement.

1. United Nations' Treaty Series and the International Maritime Organization

Stepping back a level from specific treaties and focusing on a broader swath of treaties that they are signatories of will provide a more general understanding of Chinese inclinations. Additionally, this should help to facilitate any future treaty negotiations with transparency, generally, as to what the areas of interest will be. A good place to start in this general treaty study is with the treaties of the International Maritime Organization (IMO) combined with those compiled by the UNTS.¹¹⁴ In order to get a broad perspective on the current state of Chinese involvement with both of these treaty sets the data will be coded by agreement type.¹¹⁵

¹¹² Declaration on the Conduct of Parties in the South China Sea, ASEAN, 4 November 2002, online: <http://www.aseansec.org/13165.htm>, accessed: September 9, 2007.

¹¹³ Valencia. "Regional Maritime Regime Building," 223-247.

¹¹⁴ This treaty sample is not all encompassing but, rather, is meant to offer a broad enough sample to be able to generalize the Chinese position on these matters.

¹¹⁵ These data types are the same as used by the Correlates of War (COW) project to code each of the militarized incidents they track. Coding the treaties in this manner should allow for easy comparison from the incidents that have occurred to the treaties that are on the books and, therefore, easy extrapolation to areas requiring attention. For more information on the COW data types refer to Appendix A.

One of the first issues to deal with in looking at this data is the disparity between bilateral and multilateral treaty involvement. The data in figure 10 shows that the Chinese favor bilateral agreements over multilateral ones. This inclination manifests itself in over 93 percent of the agreements being bilateral. This in and of itself does not make the PRC exceptional, many states seek to reduce the cost of their involvement by limiting the number of parties they are beholden too (as explained further in Chapter II). Moreover, looking at only those treaties that are maritime in nature reveals that 21 of 29 treaties, roughly 72 percent, are bilateral in nature. While this represents a slight decrease of the inclination to favor bilateral agreements, it still points toward a strong Chinese anathema for multilateral agreements.

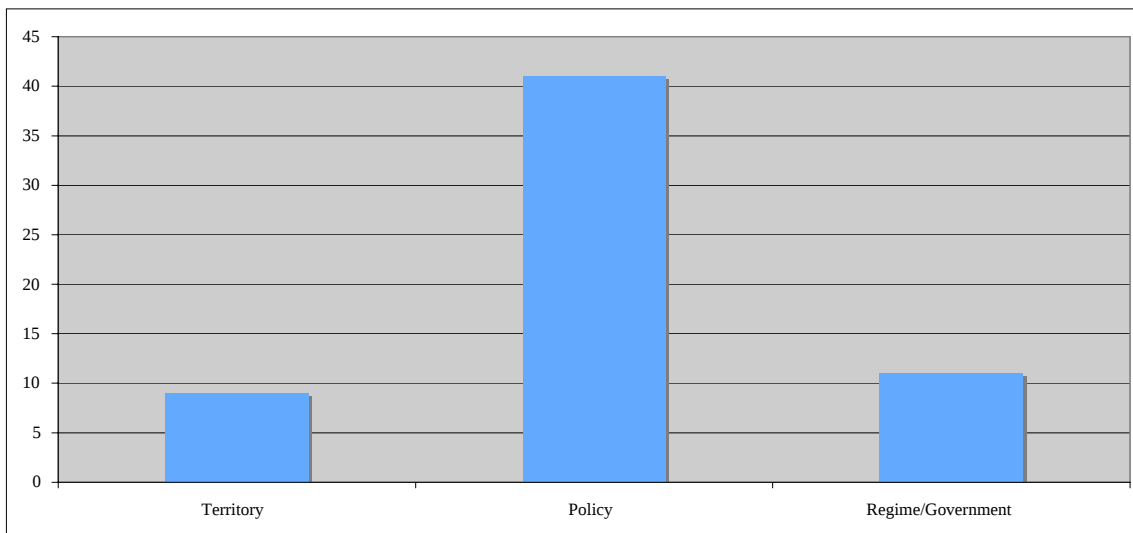


Figure 10. PRC Maritime Treaties, by Revision Type

Digging deeper into the data several more points are revealed on top of simply the general type of agreement that the Chinese are likely to sign. There seems to be a tendency towards agreements that are based on a single policy issue (*see* Figure 10). In fact, agreements relating to a single-issue policy choice or standard are more than twice as likely than both of the other types of agreements put together.

The treaties that are represented in the data set all seem to point away from a China that is preoccupied with territorial issues. It would seem logical that there would

be more treaties and agreements concerning territory, e.g., Taiwan, if it was such a high priority for the Chinese. One possible explanation is that there are simply not any territorial issues to be dealt with. Quite clearly territorial issues are, as has been shown in various other channels, a high priority for the Chinese.

C. SUMMARY

Overall, Chinese involvement with maritime agreements has been fairly active throughout the post-reform period. These general inclinations combined with a detailed investigation of the specific maritime treaties of the PRC facilitate these assessments along with several others. First, there has been an almost steady increase in the level of involvement with general treaties and, more specifically, a roughly steady engagement with maritime related treaties. This trend shows both the Chinese emergence after reforms and the effects of globalization, more generally.

Second, while there has been a generally increasing trend in overall involvement, this involvement masks the actual tendency for limited engagement. Why would increased involvement in treaties point towards a move away from commitment? This is partly due to the fact that the majority of Chinese involvement has seen a heavy inclination towards bilateral agreements as opposed to multilateral ones. As has already been discussed, this means there is a much lower threshold of commitment required on the part of the Chinese. Looking at the percentage change over time, there has been a steady decrease in the likelihood of a leader to sign a multilateral treaty (Figure 10). This seems to indicate that even as the Chinese are engaging the global commons, they seek to maintain a level of control over the markets (and countries) that they are engaging with. Essentially, it is easier for their statesmen to manipulate and influence a bilateral treaty than a multilateral one. Moreover, “it is better for China not to have an agreement than be in one at all [*sic*] that you [*i.e.*, China] can’t control.”¹¹⁶

Third, looking at the specific example of UNCLOS coupled with the more general assessments from the UNTS and IMO treaties there is further evidence of the Chinese

¹¹⁶ Dr. Wang Wenfeng. CICIR, in discussion with the Author, February 2008.

desires to maintain a non-committal posture. This evasive behavior can best be seen in the wording of the 2002 Declaration on the Conduct of Parties in the South China Sea. While not openly evasive, one of the fundamental tenets in article one is the “Five Principals of Peaceful Coexistence.” Again, while this is not openly elusive, the idea of non-interference has always been one of the realities of the “Five Principals” for China. Moreover, China has used this principle as the basis for inaction and to shirk responsibility in the past. Overall, this provision seems counter productive in the formation of a regime that was designed to cede some state sovereignty in order to gain long-term stability.

Further, looking at the types of coded treaties there seems to be an association between the level of commitment required and the likelihood of occurrence. Assuming that treaties covering specific policy issues require less commitment than those concerning how to govern over a specific interest and both of these types cost less than an agreement regarding Chinese territory.

While this study only comprised the many Chinese treaties and maritime agreements that are on record with the UN, a brief look at the larger picture will help bring these specific examples into context. Largely the efforts to engage in regional and global international institutions have not progressed much further than the discussion stage for the Chinese. The best example where Chinese cooperation has progressed is with the UNCLOS. The Chinese cooperation with respect to this treaty has been significant, as mentioned before, but there are some recent developments that augment the findings from the treaty study. One example of a deviation from this treaty occurred in the fall of 2007 when the Chinese port of Hong Kong denied permission of two U.S. warships to seek refuge from storms.¹¹⁷ This action was in clear violation of customary maritime practice and the UNCLOS, more specifically.

¹¹⁷ This incident is not to be confused with a similar incident only a couple of weeks before this one when a U.S. aircraft carrier was denied entry. The difference is that the carrier was operating under normal circumstances where all normal rules of diplomacy can be used, while the two other warships were clearly in jeopardy and were denied assistance by the port of Hong Kong. *For incident details see:* Thom Shanker. “China’s Denial of Port Calls by U.S. Ships Worries Navy,” The New York Times, 28 November 2007, online: http://www.nytimes.com/2007/11/28/world/asia/28navy.html?_r=1&ref=world&oref=slogin, accessed: February 26, 2007.

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IV. CHINESE “NAVAL INCIDENTS” SINCE 1971

A. INCIDENTS

Coupling each historical incident with their causes and exacerbating factors should give a broad overview of what circumstances could lead to increased tensions, within the Pacific maritime region. Understanding and cataloging any historical examples provide a sounding board for the current treaties, agreements, and protocols that govern maritime activities in the Pacific Ocean.

The data compiled in Figure 16, utilizing the Correlates of War (COW) project information, provides a clear picture as to what the most likely and, also, the least likely incident types are. Moreover, it gives needed perspective on which of the areas are the most likely flashpoints for future Chinese naval incidents. More specifically, these incidents can provide the details of what issues need to be addressed by future governmental instruments.

In order to have a data set that is manageable and relevant, this thesis will utilize the Correlates of War (COW) project data. This data set compiles a manner of variables regarding war and warfare along with various other aspects of state's power, more generally. For this study, the coding that is completed by the COW project will be assumed valid. Additionally, there was a need to separate out only those incidents that pertained to China and the maritime realm. This filtering was accomplished using the incident descriptions and additional documentation provided along with the COW study. Moving to the coding itself, each naval incident was coded according to the nature of the incident and then assigned one of several possible categories (as defined and documented in COW).¹¹⁸

In order to look deeper at the implications of the cumulative data from the incidents, a need arises to examine the top four, accounting for 85 percent, most likely

¹¹⁸ Faten Ghosn, Glenn Palmer, and Stuart Bremer. "The MID3 Data Set, 1993–2001: Procedures, Coding Rules, and Description," *Conflict Management and Peace Science* 21, 2004:133-154. *online*: <http://www.correlatesofwar.org/>, accessed: 10 February 2008.

incidents: “Show of Force,” “Alert,” “Seizure,” and “Threat to Use Force.”¹¹⁹ Each of these incidents will be analyzed through the lens of the possibility of escalation or conflict. This grouping should help correlate the underlying modes of each incident and aid with baseline analysis and predictions for policy recommendations. The “Alert” category, however, will most likely not add any particular insight into this study and will, therefore, not be analyzed. Additionally, an examination of those incidents that result in actual conflict and not just increased tensions will provide a baseline for potential flashpoints.

Figure 11.

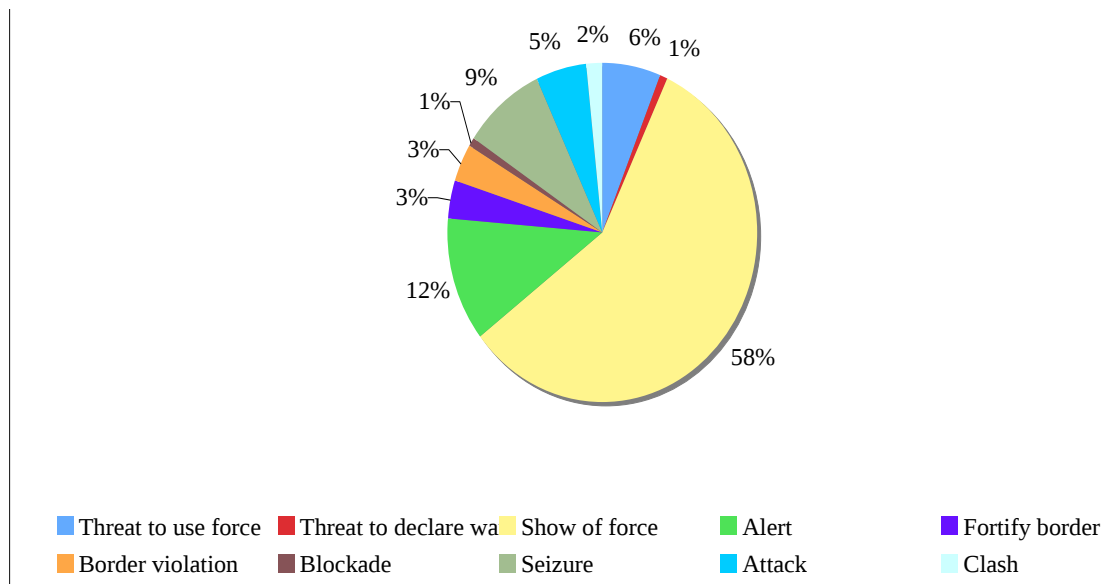


Figure 12. Incident Action by Type, 1993-2001¹²⁰

The Chinese incidents involving a “Show of Force,” similar to the title itself, mostly involve some form of military sortie to the area. This increased presence can take

¹¹⁹ While the 1995-96 Taiwan crisis seems like an obvious omission, this was done intentionally. Specifically, the Taiwan Strait crisis of ‘95-6 was a political and military action that resulted in a naval escalation as the finale, but the incident as a whole was not provoked within the maritime realm. For this analysis the goal is to illuminate potential escalations from “naval incidents,” not overt acts of aggression. However, this incident is included in the Appendix for reference.

¹²⁰ Most of the data represented is from the Correlates of War (COW) project. However, the author compiled several of the incidents and the aggregate is what is represented here. For citations and a list of the incidents represented along with their descriptions refer to the Appendix.

the form of army, navy, or air forces but seems to always involve more than just placing the forces there. The ‘extra’ that is typical of the incidents seems to include some sort of demonstration of the forces capabilities, either in the form of “warning shots” in the most extreme case to just the simple maneuvering of fighters on the mild end. A good example of this type of behavior was when, in 1995, the Chinese sortied fighters toward the Diaoyu Islands (Senkaku Islands, to the Japanese) and threatened to penetrate Japanese airspace (or actually did penetrate it, depending on the report). Several more poignant examples of this occurred throughout 1999 when increased tensions over Taiwan caused several rounds of muscle flexing that resulted in Chinese fighters crossing the line separating Taiwan from the mainland.¹²¹

A couple of points are drawn from these incidents and others, more generally. First, the simple escalation of forces is inherently an escalation in affairs at the point of the incident. Next, these incidents seem to involve some form of territorial pressure applied on the opponent. Finally, the fact that these “Show[s] of Force” involve military activities in close proximity to another nation’s vessels is inherently susceptible to misunderstanding and misperception.

The incident type that is next most likely to occur is the “Seizure” category that seems to be a much more straightforward issue to evaluate than the others. This is due to the fact that there is most likely a physical action that has occurred as opposed to the more subjective determinations needed in the various other categories of incident. Additionally, these incidents typically involve a non-military actor that is the subject of the seizing, usually fishermen. These incidents fall into the category of incidents that are most likely not dangerous at the point of action, but hold more potential for escalation with the reaction to the incident.

A series of incidents in 1995 began and ended with the seizure of fishermen from both sides sparking a heightened state of affairs over the disputed area the fishermen happened to be working that day.¹²² When looking at these instances of seizures it

¹²¹ See: Appendix, incident “4061” & “4088” for further information.

¹²² See: Appendix, incident “4027” for further information.

becomes apparent these events stem from a larger national policy. Specifically, the act of “Seizure” is less a punishment for the fishermen’s actions and, instead, more an expression or assertion aimed at those fishermen’s government. The danger here is assuming that in taking the other’s players pawns there will not be a tit-for-tat type exchange.

The remaining most frequent incident type is that of “Threat to Use Force” which is basically the rhetoric arm of these incidents. While it is no trivial issue for a government to make a declaration over the use of force, it is still, however, considerably less likely to lead to an *unintended* conflict.¹²³ As to whether, on the whole, there is a greater likelihood of conflict resulting from a “Threat of Force” as opposed to a “Show of Force,” that is beyond the scope of this paper. Moreover, the statements made seem to generally precede a “Show of Force” if the situation continues to progress in an unfavorable manner. One such case occurred in 2001 when, similar to the case in 1999, the Chinese threatened to use force in an attempt to quell Taiwanese independence moves. Instead of abating Taiwanese independence measures, however, this action provoked a response of a show of force from both Taiwanese fighters and a subsequent Chinese military exercise. Moreover, these developments drew a response from a third party, the United States, further exacerbating the situation.

Finally, in just looking at the most frequently occurring types of incidents does not mean that those that occur less often are not significant. Rather, the greater the frequency of occurrence the greater the chances are of elevating the costs associated with the action for the other side and for that type of incident to lead to an escalated situation in the future. It is for this reason that the focus is on those four types of incidents that have accounted for over 85 percent of the cases. Moreover, of the remaining types of incidents only the “Threat to Declare War” and “Blockades” hold potential to lead to unintended conflict. The other types including “Border Violations,” “Fortify Border,” “Attack,” and “Clash” all are unlikely to lead to unintended conflict. The last two may lead to conflict; however, these are more likely forms of *intentional* conflict.

¹²³ One of the assumptions here is that when a government makes a position known it is actually that position which they wish to advance as opposed to a diplomatic feint.

B. PROCLIVITY AND SYMPTOMS

So what exactly do these incidents tell us about the Chinese maritime presence? Are they indicative of future Chinese behavior or are they simply one-off occurrences that don't provide any useful generalizations? These incidents, despite occurring over a score of years, do have some common threads that are useful to untangle when looking at the potential for maritime agreements. First, while some of these incidents were resolved well and others were not, a good portion illuminate the need for a mechanism for resolving disputes and airing grievances. Additionally, most incidents were reported by the 'other' side (i.e. the state involved in the incident that *is not* China) and only acknowledged by China after the incident was reported in the media.

Second, some of these incidents seem to have in common a gap in either expectations or in perceptions as a factor in their development. The lack of understanding of Rules of the Road, failure to agree on a set border, or lack of acknowledgement of another's sovereign seas are failures to have explicit expectations agreed upon by all actors. It should not be surprising that when expectations are not met some sort of conflict, or tensions at least, would arise.

There are several instances where the divide in the perceptions of both sides led to a naval incident. One specific example occurred in April of 2001, when there was a confrontation between several Australian navy vessels and the PLAN in the Taiwan Strait. This incident is particularly relevant because it highlights the importance of perception and expectations in precipitating these incidents. Specifically, the Australians viewed the Taiwan Strait as an international waterway that they were entitled to transit through according to international law and UNCLOS. The Chinese, however, perceive this strait as being within their territorial seas, in which case the Australians would not have the right to transit this body of water without prior permission from the Chinese.¹²⁴

¹²⁴ This is only one example of the way in which perceptions can precipitate a naval incident. For more examples refer to the Appendix. Specifically, incidents: 4063, 4104, 4128, 4278, and 4336.

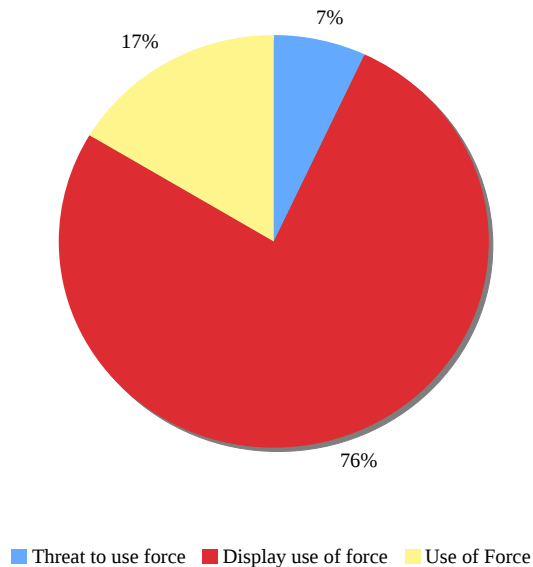


Figure 13. PRC's Hostility Level per Action ('93-'01)

Third, looking at the aggregate data on the hostility level that is associated with each incident, it seems that the Chinese are more inclined towards actions over words. Specifically, looking at Figure 12, it is apparent that over 90 percent of the time the Chinese elected to display their power in a “Show of Force” or a “Use of Force.” The fact that the Chinese seem to favor action over words has significant impact on the nature of maritime agreements that will potentially deal with this tendency. The implication of this amplifies the need to have agreements in place that are designed and capable of being implemented at the deck plate level. Having such agreements in place will help those operating at the tactical level to make decisions that are inline with the desires of national policy and agreements and not destined to be escalatory.

Fourth, and finally, it is very telling to look at only the incidents that resulted in the “Use of Force.” These incidents draw out two specific points; one, that all of these incidents except for one¹²⁵ involve the fishing fleets or fishermen of the other side; and, two, that even though these incidents involve claims of infringement on fishing rights and, by extension, the sovereignty of the country, they all occurred in disputed areas.

¹²⁵ The only outlier here is the 2001 EP-3 incident involving the U.S. surveillance efforts in, what China claims is, their territorial sea zone.

Specifically, there were no incidents of fishermen being seized, shot at, or otherwise had force used against them in areas that were not under dispute. This fact points to territorial claims being the genesis of this “Use of Force” rather than any sort of policing effort to protect their fisheries for their own sake.

Additionally, the fact that most of these incidents involved actors that were not naval forces speaks to the need for a broader scope on any future agreements. Any agreements between two naval forces will only be superficial at best if they do not address all the maritime actors, in this case fishermen and their fleets. Not only should the jurisdiction of any such agreement cover fishing fleets but also should extend to merchant marine fleets more generally, including tankers and the like.

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V. ANALYSIS AND CONCLUSIONS

This paper's analysis will examine several different aspects regarding current Chinese options for managing their international engagement. Specifically, the different aspects that will be looked at are: one, the potential for future conflict between the United States and China; two, what can be expected from maritime agreements in the U.S.-PRC context; and, three, what are the final implications of these analyses and paper, more generally? These different threads in Chinese international relations will help form the fabric for involvement with maritime agreements and, more broadly, international treaties.

A. POTENTIAL FOR U.S.-PRC MILITARIZED CONFRONTATION

So what is the potential for future militarized conflicts between the United States and a rising PRC in the maritime realm? Also, if conflict is likely, what are the potential triggers to such conflict? Can they be identified or perhaps even quantified? These questions are helpful in determining the possibility of any future utility of a Sino-U.S. INCSEA agreement.

1. Resources

Every country needs to ensure that its production capabilities and supporting infrastructure is taken care of. The problem arises when these countries begin to compete over scarce resources. In the future, it is possible that China could be brought into competition with the United States over the sources of these scarce resources. This situation is made particularly acute due to the Chinese sense of vulnerability and insecurity surrounding their access to their resources in general.¹²⁶ These concerns, however, are mitigated by the fact that the Chinese also believe that in any competition for resources they would stand to lose more vis-à-vis the United States. This view helps to reinforce a cooperative attitude towards resource competition and dampen any

¹²⁶ Dr. Wang Wenfeng, CICIR, in discussion with the author, February 2008.

sentiment for resource exploitation. Obviously there are exceptions to this resource competition as evidenced by the myriad territorial disputes in and around the South China Sea where, most likely not by accident, there is believed to be significant mineral and resource deposits.

There are additional potential areas of contention such as fishing rights and pollution controls, however, the impact of these areas is not as acutely perceived as the need to access petroleum and gas rights. That is not to say the long term benefits or, more correctly, costs of not dealing with or having access to these areas will not have a significant impact on the country's security but that there is a lack of understanding as to the immediate importance of these issues. These areas will most likely be relegated to a second-tier level until there are widespread food shortages or pollution effects widely acknowledged by either side.

2. Territory

The next area of likely dispute between the United States and China involves issues of territory and sovereignty. First, the issue over Taiwan's independence is a significant factor in the Chinese decision-making process and needs to be considered in any potential Chinese engagement. Generally the "Chinese people desire Taiwan to be reunified, however, the status quo is ok, but resolution is desirable."¹²⁷ Only looking at the political actions of the PRC, leaving out the potential uses of military hardware being procured, there does not seem to be strong revisionist actions. The government does not seem to be attempting reunification through proactive efforts rather, the main emphasis seems to be aimed at maintaining the status quo.

The United States, similar to China, seeks to maintain the status quo. This position has been espoused by many public officials as well as in many official documents such as the "Joint Communiqué on the Establishment of Diplomatic Relations" which came into effect on January 1, 1979. Even given the official position of the United States there are some obvious ambiguities surrounding the potential

¹²⁷ Dr. Wang Wenfeng, CICIR, in discussion with the author, February 2008.

involvement of the United States should Taiwan declare independence and subsequently draw China into a conflict, while there is less ambiguity of U.S. involvement should the Chinese forces invade Taiwan.

Considering both sides there seems to be little likelihood of either the United States or China being the impetus behind any conflict over Taiwan. Despite these good intentions, however, the fact still remains that while Taiwan might not be an independent state de jure, it is still an independent actor and exercise de facto sovereignty. This means that both the United States and China will need to continue to exert considerable effort to influence Taiwanese actions and prevent any pro-independence moves from occurring. A key tool for both sides would be some form of INCSEA agreement that potentially be able to prevent an incident from gaining nationalist sentiment on either side.

Second, while the United States and China have no other direct territorial conflicts, there are many neighboring countries that do have conflicts with China. These disputes, however, do not pose a significant threat to sparking a conflict between the United States and China. It is very unlikely that the United States would intervene in these regional disputes past a level of rhetoric or perhaps aid or support. There has been no precedent of the United States involving itself in these disputes in the last 30 years and, given the increasing diplomatic and economic ties between China and the United States, it is unlikely to in the future. Moreover, these territorial disputes do not provoke the same nationalist sentiment within China as is associated with Taiwan, so if the United States or another regional power were to exert considerable force over one of these it is significantly less likely that China would respond in kind.¹²⁸

3. Expansion

As was evident in the comparison with the Soviet Union of the Cold War, China today is moving out into the global maritime commons with increasing frequency. This expansion has resulted in both increased merchant marine forces (Figure 6) and in

¹²⁸ Dr. Niu Xinchun. CICIR, in discussion with the author, February 2008..

expansion of the PLAN in both numbers and capabilities. The expansion of the PLAN has not been uncontrolled and it appears that the Chinese will be limited to a “green water” naval force in the near term.

Additionally, INCSEA was a treaty developed to govern the "High Seas." Moreover, this was a treaty born from elevated levels of anxiety and, largely, an increasingly crowded Eastern Mediterranean Sea. The current Sino-American relationship, however, needs to be able to handle a more littoral and "green water" focus and address all "naval incidents." So, with China's increasingly “green water navy,” does this have any implications for the broader chances of a conflict with the United States (i.e., EP-3-like incidents which are more likely in the littoral where naval and air forces come into contact)? The coastal and regionally focused PLAN of tomorrow will present new challenges to any agreement that is modeled after INCSEA. It will be increasingly more difficult to sort out the maritime traffic as you move closer to shore. Moreover, in the crowded littorals the decreased fidelity of marine activity increases the chances for transnational actors (e.g., terrorists) to capitalize on the confusion.

B. MOVING FORWARD

What sort of issues can we expect to be addressed by maritime agreements and maritime regimes between a rising China and other Asia-Pacific actors? With historical precedence as a guide, there seem to be several readily addressable issues along with some other, more peripheral items. First, narrowly defining the issues to be addressed is key to the success of any maritime agreement. Making too broad or sweeping claims will result in alienation of one or more of the actors participating and will most likely stall the agreement in the discussion stage.

Second, having clear, easily measurable mechanisms is a big catalyst in solidifying the status of the regime. While this aspect doesn't help in regime formation, any maritime agreement will be better off if there is less room for diplomatic maneuvering and the more the agreement holds actors to account for their actions. Additionally, ever increasing globalization and China's “green-water” focus mean that many actors will have access to the littoral marine domain which may not share the

maritime heritage that was a common, baseline understanding shared by the two navies who signed INCSEA. In any future maritime agreement, this potential gap in common understanding needs to be bridged through a much more detailed delineation of daily, tactical operations and how they will be conducted.

Third, time is central for any maritime regime. Time permeates all the other factors within regimes, both in the formation of them and also in strengthening them after formation. Regime mechanisms such as reputation, reciprocity, and repetition in negotiations, along with several other facets, all gain strength through the passage of time and number of iterations. There is a need to introduce the “bezel” concept in our agreements, i.e., you can always schedule meetings more frequently than is originally stipulated in the treaty but you cannot extend the interval between meetings.

Finally, with sporadic and largely nascent attempts in the South China sea, and very little in the way of cooperation in NEA, the AP is still a ways from forming a maritime security regime.¹²⁹ Policy makers should look to develop the regional cooperative regimes that one day may form a broader Asia-Pacific regime. The fact that most countries (over 157) have agreed to UNCLOS means that the foundation is already there to be built upon.¹³⁰ With that solid foundation and the supporting regional pillars, once they are solidified, it will only be incremental steps that are needed to build an Asia-Pacific maritime regime.

C. SINO-AMERICAN MARITIME AGREEMENTS

There are several important factors regarding domestic politics within the PRC that have ramifications on future U.S.-PRC cooperation. First, the CCP plays a key role in and has significant influence over the full spectrum of Chinese policy formulation and

¹²⁹ Mark J. Valencia. “Regional Maritime Regime Building: Prospects in Northeast and Southeast Asia,” *Ocean Development & International Law*, Vol 31, 2000: 242.

¹³⁰ “Status of the United Nations Convention on the Law of the Sea, of the Agreement relating to the implementation of Part XI of the Convention and of the Agreement for the implementation of the provisions of the Convention relating to the conservation and management of straddling fish stocks and highly migratory fish stocks.” United Nations Division for Ocean Affairs and the Law of the Sea, Office of the Legal Affairs, 7 August 2007, available: http://www.un.org/Depts/los/convention_agreements/convention_overview_convention.htm, , accessed: September 19, 2007. See also footnote #1.

implementation. The importance of maintaining the rule of the CCP should not be underestimated regarding its involvement with international treaties. “If they [the Chinese leadership] are [sic] secure in the belief that China’s national face is respected in the international community, the Chinese people will marginalize parochial nationalists...and demand that their leaders behave like superior men.”¹³¹ Moreover, in order to facilitate this goal, the CCP has begun slowly aligning its basis for legitimacy with the economic success of the country. The slow erosion of the ideological underpinnings means the CCP will bend ideologically to facilitate economic ends.

Second, it would be mutually beneficial to use domestic law as the baseline for international agreements. This will have the dyadic affect of increasing the legitimacy of that particular maritime agreement while at the same time increasing the legitimacy of the CCP by reinforcing its own country’s laws. The simple fact that China believes in rules is a factor that bodes well for future cooperation. By accepting the use of international rules as a norm, China is already tacitly, if not overtly, agreeing to the basic fundamentals of the world system, as it exists today. Just because there is rhetoric surrounding the so-called “Beijing approach” does not detract from the fact that they respect rules in a general sense. To the contrary, this exemplifies China’s acceptance of and willingness to use the world system as it exists today.

Third, globalizing forces are changing the face of cooperation for all players in the global commons. On the face of the data in Figure 10, it seems there is an erosion of maritime cooperation to foster cooperation on myriad other levels. While this increased cooperation is vital to continued growth both in the world economy and individual countries, it is important to keep sight of the fact that over 90 percent of the world’s trade is still conducted via seaborne routes.¹³² This underscores the importance of maintaining maritime cooperation alongside increased cooperation in other areas.

¹³¹ Peter Hays Gries. *China’s New Nationalism: Pride, Politics, and Diplomacy*, Berkeley: University of California Press, 2004: 29.

¹³² *World Globalization Index 2007*, AT Kearney, Inc., 2007, online: <http://www.atkearney.com/main.taf?p=5,4,1,127,2>, accessed: November 13, 2007..

Fourth, China is more likely to engage on any issue, maritime or otherwise, bilaterally. The process matters and is *key* to how the Chinese view ongoing relationships. The fact that meetings are taking place (and also who attends those meetings) is viewed as being successful. This could be and will be *essential* for any workable, ongoing, and positive structure that is established. Ultimately, from the Chinese perspective, it is not the results that are important in the short to medium term, but rather the manner in which that result is sought. The fact there is a general Chinese sentiment of moving forward simply from engaging in meetings, however, does not absolve responsibility for non-binding action on the part of the Chinese. At some point, meeting just for the sake of meeting *is* unproductive and wasteful.

Fifth, since treaties concerning territory are important but rarely dealt with very well, it will be much easier to agree upon issues devoid of territorial implications. Since there are no significant Sino-American disputes over territorial claims, this should help facilitate ease of negotiations. Moreover, forming agreements based on single policy issues seems not only possible, but is more likely than not given the history of Chinese agreements. A bigger hurdle, however, has been the United States' recent anathema towards international institutions and agreements that has prevented even ubiquitous agreements like the UNCLOS from being signed.

Sixth, there is currently a higher chance of a non-naval incident or vessel leading to a conflict where the naval forces are drawn into the conflict, thus becoming a "naval incident." This is different than the situation between the United States and Soviet Union where the concern was primarily a military-to-military, specifically navy-to-navy issue. Yet, even the very first annual review of the INCSEA brought non-military vessels under the auspices of the agreement with very little fanfare on either side. The future of U.S.-Chinese cooperation will be greatly influenced by the confluence of civil-military contact.

Seventh, and finally, the focus of future U.S.-Chinese treaties do not need to contain the exact scope and limitations that led to successful engagement in other treaties in order to bear fruit today. For example, some of the main reasons for the success of the INCSEA would be universally applicable (i.e., simply the framework itself that fostered

communication or annual review would be a step in the right direction). The interaction is the important thing, whether it is one time or one thousand times, it is the actual engagement that matters.

D. CONCLUSION

The way ahead for the United States-PRC maritime relationship is anything but smooth sailing. The events toward the end of 2007 regarding port calls and safe harbor, while not specifically pointing towards open conflict, nonetheless represent undercurrents of animosity that need to be addressed. To deal with these facts, maritime agreements should be part of other, broader international institutions and maritime regimes that can help China's increased interaction with the rest of the world continue peacefully. The issues that need to be addressed include misunderstandings that can escalate tensions, territorial disputes, navigational, and specified use (fishing and mineral) rights and privileges.¹³³ Additionally, "emerging regional security concerns such as piracy, pollution from oil spills, safety of sea lines of communication, illegal fishing, and exploitation of others' offshore resources" could all lead to conflict if not sufficiently addressed by the appropriate international institutions that govern the area.¹³⁴

The data compiled in this paper can help facilitate future United States and PRC maritime agreements and, more generally, cooperation. Understanding the current nature of Chinese engagement can help to recalibrate our measurement standards along with our goals for future talks. The mere fact that their levels of bilateral cooperation are so high bodes well for future agreements and institutions that will have binding provisions. The key will be to find ways to bridge the gap from little victories on single policy issues to binding resolutions from multilateral agreements. To foster successful cooperation between the United States and China (or any other international actors more generally), adherence to several principles will greatly increase the chances of that relationship's success: building on common interests, utilization of confidence building measures

¹³³ For a discussion on the importance of international legal agreements see generally: Mark J. Valencia. "Regional Maritime Regime Building: Prospects in Northeast and Southeast Asia," *Ocean Development & International Law*, Vol 31, 2000: 229 (223-247).

¹³⁴ *Ibid*, 224.

(CBMs), basing cooperation on domestic (i.e., national) laws, building mechanisms for predictability, and, finally, ensuring an operating environment with both tactical and “political space.” As was noted by Admiral Jacobson in an address at the Naval War College in Newport, any partnership between the United States and China needs to be “reciprocal, mutually beneficial, mutually respectful, and transparent.”¹³⁵

There is an increasing likelihood for general success of cooperation between the United States and the PRC. Additionally, most of the factors that will aid in that goal are very achievable, “low-hanging fruit.” Overall, the effect of each of these aspects is to decrease the individual cost of cooperation while, at the same time, ensuring continued benefits to the parties involved. The ultimate goal should not be “to create a document, but to improve the relationship.”¹³⁶

¹³⁵ Remarks made by Admiral Jacobson during his opening address, December 2007 at the Naval War College in Newport, R.I. for the start of the conference titled, “Defining a Maritime Security Partnership with China.”

¹³⁶ Remarks made by Dr. David Griffiths of Dalhousie University on December 2007 at the Naval War College in Newport, R.I. for the start of the conference titled, “Defining a Maritime Security Partnership with China.”

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APPENDIX. CHRONOLOGICAL CHINESE NAVAL INCIDENTS¹³⁷

Date	Incident
March 1985	South Korea returns members of Chinese naval vessel with a supposed 'mutiny' occurring. ¹³⁸ Additionally, on the 23 rd of March, "three Chinese navy ships, apparently searching for the drifting boat, intruded into South Korean waters early [in the day] and were driven away by warning shots." ¹³⁹
March 1988	Naval Skirmish between China and Vietnam. "Chinese and Vietnamese ships exchanged gunfire" ¹⁴⁰
1993 (4023)	This dispute consists of one incident in which China placed its forces on alert in response to its concern that Taiwan was beginning to increase moves toward independence. China placed its air, naval, and land forces on alert.
1993 (4052)	As part of an anti-smuggling patrol, Chinese naval forces conducted an armed boarding of a Russian trawler. The seizure occurred in international waters.
1993 (4029)	China resumed exploring oil fields in waters in the Gulf of Tonkin, claimed by Vietnam. The Chinese search, 110 km. off Vietnam, resulted in protest from Hanoi. The dispute centers on contested waters near the Spratly Islands (claimed by more countries than just China and Vietnam).
1994 (4030)	In May 1994, China engaged in a show of force by increasing its naval presence around the Spratly Islands with one frigate, landing craft, torpedo boats, two research ships and data collection vessels. In July 1994, two Chinese warships blockaded a Vietnamese oilrig in the same area. China turned back at least one ship carrying supplies for the rig. On July 2, 1994, Vietnam seized three Chinese fishing boats and detained their crews. China protested Vietnam's seizure and demanded the return of the vessels and the crew. In August 1994, Vietnamese gunships engaged in a show of force by forcing a Chinese research vessel to flee an oil field claimed by both countries. ¹⁴¹
1994 (4104)	Chinese military servicemen opened fire on Russian fishermen fishing on the Agur

¹³⁷ This list is the result of extensive searches on several databases across several fields, however, it is still most likely not comprehensive in nature. Additionally, incidents not otherwise footnoted, *ALL* data are from the Version 3.10 of the Correlates of War project which still retains all copyrights on the information, available: Ghosn, Faten, Glenn Palmer, and Stuart Bremer. "The MID3 Data Set, 1993–2001: Procedures, Coding Rules, and Description." *Conflict Management and Peace Science* 21, 2004:133-154, online: <http://www.correlatesofwar.org>, accessed: February 14, 2008..

¹³⁸ John F. Burns. "Seoul Returns Boat to China: Peking Expresses its thanks," *The New York Times*, online: <http://proquest.umi.com>, accessed: September 20, 2007. See also "Bloomberg.com, story on January 24th.

¹³⁹ Inquirer Wire Services. "S. Korea Fires Shots to Repel Three Chinese Naval Ships," *The Philadelphia Inquirer*, 24 March 1985, online: <http://www.philly.com>, accessed: September 20, 2007.

¹⁴⁰ "China and Vietnam Skirmish Over Disputed Island Chain," *The New York Times*, 16 March 1988, online: <http://query.nytimes.com/gst/fullpage.html?res=940DEED6103BF935A25750C0A96E948260>, accessed: February 14, 2008.

¹⁴¹ Michael Richardson, "China Blocks Supplies for Vietnamese Oil Rig: Face-Off in South China Sea," *International Herald Tribune*, July 19, 1994, online: http://www.iht.com/articles/1994/07/19/viet_0.php, accessed: March 18, 2008.

1994 (4065)	River on the border between Siberia and Manchuria. According to reports, a group of Chinese, including servicemen, gestured to the Russian fishermen to come to the Chinese bank of the river. As they approached, Chinese forces opened fire on the fishermen, searched the boat, and confiscated its nets. A Russian civilian was wounded. Russia protested the action. This dispute involves three incidents. The first two incidents involved Chinese military exercises that practiced landings on the Korean peninsula. The reports indicated that the exercises were "a show for the United States and South Korea." The exercises occurred on 8/23/94. The third incident occurred when China scrambled jets in response to the American tracking of a North Korean sub with sonar.
September 1994	Russian coast guard shot and killed 2 Chinese fishermen and seized a North Korean vessel.
November 1994 (4035)	This dispute consists of 3 incidents in which China was undertaking actions aimed at warning Taiwan against declaring independence. The incidents include Chinese sub incursions, military exercises, and an alert following an accidental Taiwanese shelling.
December 1994	USS Kitty Hawk patrol, on Oct 27 th sub trackers picked up a Han-class submarine. "S-3 planes began tracking the submarine," U.S. Navy officials said. The planes dropped listening devices to follow the vessel, but they were not armed with antisubmarine torpedoes. On Oct. 28 th one of the S-3s was 'joined on' by two Chinese F-6 fighter jets, which flew around them within visual range for about five minutes, according to a Navy official. The next day another S-3 was 'joined on' by a single F-6, which flew in the area about 30 minutes. U.S. Navy ships and aircraft operated only in international waters and airspace, and in a routine non-threatening manner... ¹⁴²
1994	Up to 30 incidents involving vessels, Russian & other, in Chinese waters being detained. ¹⁴³
1995 (4019)	This dispute consisted of 1 incident in which a North Korean patrol boat fired at a Chinese fishing boat.
1995 (4020)	This dispute involved 6 incidents in which Taiwanese forces seized, boarded, and fired upon Chinese fishing vessels. In each case, China protested the Taiwanese actions. This dispute centers on Taiwanese efforts to intimidate Chinese fishermen. The concurrent dispute involves Chinese efforts to intimidate Taiwan away from moves toward independence.
1995 (4064)	This dispute consists of a series of incidents in which China seeks to intimidate Taiwan away from moves toward independence and Taiwanese and American responses to these Chinese actions. China deployed missiles opposite Taiwan, intercepted Taiwanese vessels, conducted military exercises, and conducted air and naval shows of force. In response, Taiwan repeatedly placed its forces on alert, deployed missiles, and scrambled jets. Beginning in December 1995, the US deployed naval forces to the area as a show of force to China. U.S. naval forces were sent to the region again in March 1996.
1995 (4061)	Two incidents that occurred in the same day when Chinese fighter planes approached the disputed Senkaku Islands and came close to violating Japanese airspace. Japan responded to the action by scrambling two fighters.

¹⁴² John F. Harris and T. Lippman. "Chinese Watched as U.S. Navy Tracked Sub," *The Washington Post*, 15 December 1994, online: <http://proquest.umi.com>, accessed: September 20, 2007.

¹⁴³ Mark J. Valencia. "Asia, the Law of the Sea and International Relations," *International Affairs* (Royal Institute of International Affairs 1944-), Vol. 73, No. 2, Asia and the Pacific, Apr., 1997: 263-282, online: <http://links.jstor.org/sici?sici=0020-5850%28199704%2973%3A2%3C263%3AATLOTS%3E2.0.CO%3B2-B>, accessed: November 7, 2007.

1995 (4027)	In January 1995, China detained Philippine fishermen and Philippines filed an official protest against China. On February 22, 1995, Philippines dispatched naval vessels and aircraft to the Spratlys in response to the discovery of Chinese structures there. The naval craft closed within "half a mile" of Chinese vessels and fighter jets conducted renaissance flights in the area. On March 25, 1995, Philippines seized four Chinese fishing vessels sailing near an island claimed by Philippines. Philippines sentenced the new crew to 10 months in jail. China demanded the return of the crew and called the verdict "illegal." On May 13, 1995, China and Philippines engaged in mutual "show of force", in which Chinese vessels blocked a Philippine navy vessel sailing toward the Spratlys. Philippines sent a navy ship to the Spratly area and an air force jet to the area when Chinese vessels approached the Philippine ship.
1996 (4062)	Chinese deployment of two submarines to the Senkaku Islands. The deployment occurred following activities by ultra-nationalist groups on the islands.
1996 (4063)	This dispute involves 2 incidents- an Indonesian naval exercise near the Natuna Islands and the dispatch of 5 warships to the area by China in response to the exercise. The Indonesian exercise was, according to reports, "intended to warn Beijing that Jakarta will strongly resist any Chinese attempt to assert control over a huge natural gas project being developed by Indonesian and US companies." China renounced its claims on the Natunas in 1995, but not the gas field.
Dec '96- Sep '97 (4028)	This dispute is based on a couple of consecutive militarized incidents between China and Philippines over control of the disputed Spratly Islands. In December 1996, Philippines upgraded its capabilities in the Spratlys to prepare for a possible conflict with China. Four months later, in April 1997, four armed Chinese vessels were spotted in the Spratly Islands and cruised near Kota and Panata Islands where Philippine troops are stationed. In response, Philippines scrambled fighter jets for patrol missions. Furthermore, they consequently deployed an additional company of marines (approximately 200 men). Philippine forces were also placed on alert in response to the sightings of Chinese warships. Philippines also deployed naval vessels to the disputed Scarborough Shoal and blocked the entry of three non-governmental Chinese boats into the area in, again, April 1997. In May 1997, Philippines arrested 21 Chinese fishermen for poaching off the Scarborough Shoal. In June 1997, Philippines blasted concrete slabs and pulled up buoys in an area of the Spratly Islands. In the same month, Philippine navy patrolmen fired warning shots at a Chinese fishing vessel near Kota Island and Spratly Islands. In the next month, Philippines arrested at least 23 Chinese and Hong Kong fishermen because of "illegal entry and illegal fishing." Chinese Embassy secretary said China would consider official protest. On September 23, 1997, the fishermen were released.
1998 (4328)	Vietnam sent warships and personnel to two disputed reefs in the Spratly Islands, setting up "permanent" facilities on the reefs. China protested the action and demanded that the structures be removed. Vietnam claimed that the structures were civilian and the personnel were not soldiers. The event, however, was triggered by the presence of the Vietnamese navy, not the structures.
1998 (4329)	Philippines increased patrols in the Spratlys as a result of the sighting of unspecified Chinese and Vietnamese vessels. Although some officials noted the sightings were part of "regular movements" in the disputed archipelago, the Philippine armed forces ordered increased patrols in the vicinity of Pag-asa.
1998, '99, '00 (4128)	This dispute is based on a series of bilateral incidents among China and Philippines, which occurred because of tensions about control over the disputed Spratly Islands by the claimant countries. In August 1998, Philippines engaged in a show of force by increasing patrols in the Spratly Islands as a result of the sighting of unspecified Chinese and Vietnamese vessels. Starting from October 28, 1998, Philippines protested against the intrusion of several armed Chinese vessels and cargo ships near a group of islands in the Spratlys. China was reported to be constructing structures on the area. In response to China's naval movements in the Spratlys, Philippines

1999- '00 (4088)	engaged in a counter show of force by increasing naval patrols in the area in order to prevent the entrance and exit of Chinese naval vessels (starting in November 1998). China protested the increase of Philippine patrols. On November 11, 1998, Philippines placed its forces on alert in the South China Sea in response to Chinese encroachment on one of the disputed reefs. The Philippine navy was ordered to "shoot across the bow" of any intruding Chinese ships. On November 29, 1998, Philippines arrested twenty Chinese fishermen fishing on the Spratly Islands and detained their boats. China protested the Philippine action. The reports state that the fishermen were still under detention as of December 21, 1998. On May 23, 1999, a Philippine navy vessel chased and collided with a Chinese fishing vessel near the Scarborough Shoal. The Chinese vessel sank as a result of the collision, which Philippines labeled as "accidental." China expressed "strong displeasure" for the incident. On July 19, 1999, a Philippine navy ship chased two Chinese fishing vessels in the Spratly Islands. The Philippine vessel fired warning shots at one of the fishing vessels before ramming the fishing boat. The Philippine side claimed that the ramming was accidental. China filed a protest in response to the Philippine show of force. On October 30, 1999, Vietnamese troops allegedly shot a Philippine air force plane flying over Pigeon Reef (a reef controlled by Vietnam). Vietnam accused Philippines of seriously violating Vietnam's sovereignty and reiterated its claim to sovereignty over all the Spratly Islands. In the first two months of 2000, Philippines navy boarded several Chinese fishing vessels and fired warning shots across the bows of two Chinese vessels near the Scarborough Shoal. The participants mentioned that they wanted to solve the Spratlys issue peacefully after the incidents. This dispute consists of 19 militarized incidents involving China, Taiwan, and the US. The overriding issue throughout this dispute is Chinese concern that Taiwan is moving toward independence from the mainland. As a result, China conducted a series of alerts, threats, and shows of force aimed at intimidating Taiwan. The Chinese shows of force included military exercises, missile tests, the deployment of missiles near Taiwan, and increased fighter sorties by Chinese jets near Taiwan. Taiwan responded to these actions by repeatedly placing its forces on alert and launching its own fighters when China conducted sorties near Taiwan. The tensions increased in late July 1999 when Chinese jets crossed the dividing line separating Taiwan and China on 2 separate occasions. The US responded to the increased tensions by deploying two aircraft carrier groups to the region in July and August 1999. The threats and shows of force by both sides continued into 2000. In February 2000 China passed a guided missile destroyer purchased from Russia through the Taiwan Strait in an effort to intimidate Taiwan. The United States responded by deploying the USS Kitty Hawk air craft carrier group to the region in late February.
1999 (4180)	This dispute consists of two incidents in which Chinese naval forces conducted naval exercises around the disputed Senkaku Islands. In the May 1999 incident, Japanese patrols spotted 12 Chinese warships cruising in waters around the Senkaku Islands, within Japan's exclusive economic zone. In the July 1999 incident, 10 Chinese vessels were sighted near the Senkaku Islands conducting drills. This dispute occurred within Japan's exclusive economic zone.
1999 (4127)	This dispute consisted of one incident in which Japanese forces seized a South Korean fishing boat that was fishing in waters claimed as an exclusive economic zone for China and Japan. South Korea protested the seizure and Japan released the vessel 4 days later.
2001 (4279)	This dispute is based on a show of force by China against Philippines. China is reported to have increased its naval presence in the disputed Spratly Islands in May 2001, including conducting live fire exercises in the area. Furthermore, Chinese vessels were spotted in the Scarborough Shoal area for the first time. This naval deployment occurred even though China assured to Philippines that China was not seeking a military presence in the area.
2001 (4280)	This dispute involves 5 incidents between the US & China that center around

2001 (4281)	American reconnaissance near the Chinese coast. On 4/1/2001 an American spy plane crash-landed on China's Hainan Island after colliding with a Chinese fighter over international waters. The Chinese pilot was killed in the accidental collision. China, after the crash, seized both the American crew and plane. The United States responded to the crash and seizure by demanding release of the crew and return of the plane. The United States also responded by moving 3 destroyers to the waters off China. China scrambled 10 fighters on 4/5/01 when it detected a U.S. spy plane off the China coast. The dispute was resolved on 7/3/01 after the United States expressed regret and the plane was returned to the United States. The crew was released on 4/11/01.¹⁴⁴ This dispute consists of 6 incidents in which Chinese threats toward Taiwan escalated to involve shows of force by both sides. The issue under dispute involves Chinese concern over Taiwanese moves toward independence. Because Chinese actions are aimed at changing Taiwanese behavior, China is coded as the revisionist state. The dispute began on 3/27/01 when China threatened to declare war if Taiwan declared independence. On 8/1/01 China again threatened to use force if Taiwan declared independence. These threats were followed by a Taiwanese show of force in which Taiwan conducted aerial flight maneuvers with 10 AH-1W Helicopters on 8/21/01. On 8/22/01 China conducted the largest exercises ever around Dongshan Island. According to reports, the exercises involved 100,000 personnel and simulated how the PLA would "smash" separatist actions by Taiwan. The US responded to the Chinese moves by threatening force if Taiwan was attacked. The US also conducted naval exercises in the South China Sea as a show of force. The naval exercise only lasted one day (8/17/01) and involved two U.S. aircraft carriers.
2001 (4336)	This dispute consists of one incident in which a Chinese warship chased a U.S. Navy ship from international waters near the Chinese coast. China regards the waters as its own territory, but the claimed maritime boundary is not recognized internationally. This dispute represents another case in which Chinese forces challenged American surveillance activities along its coast.
April 2001 (4278)	3 Royal Australian Navy warships in a standoff with a Chinese warship in the Taiwan Straits. (Dealing with innocent passage and the rights/ responsibilities of warships)¹⁴⁵ 3 Australian naval vessels traversed into a "sensitive" area of the Taiwan Strait as they were returning from a visit to South Korea. In response, a Chinese warship intercepted the vessels and ordered them to leave the area. The Australian vessels sailed on after telling the Chinese vessel that it was within their right to do so. China protested the action.
January 2004	Vietnamese fishermen killed by the Chinese navy. "Navy ships from the PLAN [PRC] shot and killed nine Vietnamese fishermen and injured seven others in the Vinh Bac Bo (Gulf of Tonkin). Eight fishermen were kidnapped."¹⁴⁶

¹⁴⁴ Mark J. Valencia and Ji Guoxing, "The "North Korean" Ship and U.S. Spy Plane Incidents: Similarities, Differences, and Lessons Learned," *Asian Survey* 42, no. 5 (2002).

¹⁴⁵ "Australian Navy in China Standoff," TVNZ, 30 April 2001, online: <http://tvnz.co.nz>, accessed: September 20, 2007. Also: Barry Renfrew, "Australian Warships Rebuff Chinese," *Associated Press*, 29 April 2001, online: <http://taiwansecurity.org/AP/2001/AP-042901.htm>, accessed: September 20, 2007.

¹⁴⁶ Thi Q Lam, "Latest Gulf of Tonkin Incident Reveals China's Imperialist Designs," *New America Media*, 13 February 2005, online: http://news.ncmonline.com/news/view_article.html, accessed: September 20, 2007.

November 2004	Reports of the Japanese Navy observing and tracking a Chinese sub, assumed to be from the acoustic signature, and then losing track. ¹⁴⁷ The submarine entered into Japanese waters near Okinawa and “it spent about two hours in Japanese waters.” ¹⁴⁸
October 2006	Chinese submarine surfaces in the midst of the USS Kitty Hawk carrier battle group. ¹⁴⁹
8 April 2007	Chinese ship JIN HAI KUN (17,000 grt bulk carrier), collided with Belize registered HARVEST at 4:16am (nighttime) on the 8 th of April. 20 crew missing from HARVEST, Location: Taizhou Bay (N 28 20.8, E 122 2.6) ¹⁵⁰

¹⁴⁷ Wieland Wagner. “Japan-China Sub Escapade Raises Japanese Hackles,” *Spiegel Online*, 22 November 2004, online: <http://www.spiegel.de/international>, accessed: September 20, 2007. See also: Reuters. “Japan to protest to China after submarine incident,” *Financial Times*, 12 November 2004, , online: <http://www.ft.com>, accessed: September 20, 2007.

¹⁴⁸ Matthew Clark. “Japan Says China Apologizes for Sub Incident,” *The Christian Science Monitor*, 16 November 2004, online: <http://www.csmonitor.com>, accessed: September 20, 2007.

¹⁴⁹ “U.S. Commander Says Chinese Sub Came Close to American Ships in Pacific,” *Fox News*, 14 November 2006, available: <http://www.foxnews.com>, accessed: September 20, 2007.

¹⁵⁰ XinhuaNet Tagline. *Xinhua*, 2007, online: http://www.xinhuanet.com/english/2007-04/08/content_5948939.htm, accessed: September 20, 2007.

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